

Report on the

**Board of Chiropractic
Examiners
Clanton, Alabama**



**Department of
Examiners of Public Accounts**

**50 North Ripley Street, Room 3201
P.O. Box 302251
Montgomery, Alabama 36130-2251**

Ronald L. Jones, Chief Examiner

STATE OF ALABAMA
Department of
EXAMINERS OF PUBLIC ACCOUNTS

Telephone (334) 242-9200
FAX (334) 242-1775

Ronald L. Jones
Chief Examiner

Mailing Address:
P.O. Box 302251
Montgomery, AL 36130-2251

Location:
Gordon Persons Building
50 North Ripley Street, Room 3201
Montgomery, AL 36104-3833

August 20, 2008

Representative Howard Sanderford
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Mr. Sanderford:

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the Alabama Board of Chiropractic Examiners in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the Board of Chiropractic Examiners in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald L. Jones", written in a cursive style.

Ronald L. Jones
Chief Examiner

Examiner
Calvin Cooper

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PROFILE

Purpose/Authority

The Board of Chiropractic Examiners was established in 1959, and currently operates under the authority of the *Code of Alabama 1975*, Sections 34-24-120 through 34-24-176. The board licenses and regulates the practice and profession of chiropractic in Alabama. The board is empowered to certify and license chiropractors, and to formulate rules and regulations relating to the profession, establish standards of continuing education, and conduct investigations and hearings based on complaints against chiropractors.

Characteristics

| | |
|------------------------------|--|
| Members and Selection | 9 members. 8 elected licensed chiropractors - one elected from each of the seven congressional districts - one African-American elected from the state at-large. <i>Code of Alabama 1975, §34-24-140(a)</i> 1 consumer member – appointed by the governor. <i>Code of Alabama 1975, §34-24-140(b)</i> |
| Term | 4-year staggered terms No more than two consecutive full terms <i>Code of Alabama 1975, §34-24-141</i> |
| Qualifications | Elected members <ul style="list-style-type: none">• Active licensed chiropractor• State resident for at least five years• Resident of the congressional district from which elected• Graduate of a chartered chiropractic school or college which requires actual attendance in the school as a prerequisite to graduation• Currently in the clinical practice of chiropractic• Of good moral character• Engaged in the practice of chiropractic in Alabama for at least five years <i>Code of Alabama 1975, §34-24-140(a)</i> Consumer member – must not be <ul style="list-style-type: none">• A chiropractor.• Employed in the chiropractic field.• An immediate family member of a chiropractor. <i>Code of Alabama 1975, §34-24-140(b)</i> |

| | |
|------------------------------------|---|
| Racial Representation | One African-American member elected from the state at-large. One African-American member serving <i>Code of Alabama 1975, §34-24-140(a)</i> |
| Geographical Representation | One elected from each of the seven congressional districts. <i>Code of Alabama 1975, §34-24-140(a)</i> |
| Consumer Representation | One appointed by the governor. One consumer member serving <i>Code of Alabama 1975, §34-24-140(b)</i> |
| Compensation | Daily compensation at 80% of the rate established by <i>Code of Alabama 1975</i> §34-24-54 for the Board of Medical Examiners, (The maximum allowable rate specified in Section 34-24-54 is \$300/day.) Currently, \$240.00/day for attendance at board meetings. Travel expenses are reimbursed at the rate provided for state employees. <i>Code of Alabama 1975, §34-24-142</i> |
| <u>Operations</u> | |
| Administrator | Sheila K. Bolton, Executive Secretary - Annual salary \$58,929.60. Salary set by the board with the approval of the State Personnel Department. <i>Code of Alabama 1975, §34-24-140(f)</i> |
| Location | 102 Chilton Place Clanton, AL 35045 |
| Examinations | The National Board of Chiropractic Examiners administers a four-part examination and a Special Purposes Examination of Chiropractic. Passing the national examination is a prerequisite to application for licensure in Alabama. <i>Code of Alabama 1975, §34-24-161</i> The Alabama Board of Chiropractic Examiners also administers an Alabama Board Examination, which tests applicants on state laws and regulations. There is no current statutory provision for the state examination |

| Renewals | <p>September 30 of the year for which it is issued.</p> <p>A late renewal penalty is assessed any licensee who fails to pay the renewal fee by September 30.</p> <ul style="list-style-type: none">• \$50 for renewal in October• \$100 for renewal in November• \$250 for renewal in December• Failure to renew by December 31 results in forfeiture of the right of the licensee to practice in the state, unless waived <p><i>Code of Alabama 1975, §34-24-165(a)</i></p> | | | | | | | | | | | | | | | | | | | | | | | | |
|---|--|---|--|--|--------------|--------|------------------------------|--------|-----|---------------|---------|----|---------------|----------|----|---------------|----------------|----|---------------|-------|-----|--|------------------------------|--|--|
| Licensees | <table><tr><th colspan="3"><i>Schedule of Licensees by Type</i> <i>As of July 1, 2008</i></th></tr><tr><th>Type License</th><th>Number</th><th><i>Code of Alabama 1975,</i></th></tr><tr><td>Active</td><td>730</td><td>§34-24-161(b)</td></tr><tr><td>Retired</td><td>10</td><td>§34-24-165(c)</td></tr><tr><td>Inactive</td><td>60</td><td>§34-24-165(f)</td></tr><tr><td>Permit Holder*</td><td>23</td><td>§34-24-123(b)</td></tr><tr><td>Total</td><td>823</td><td></td></tr><tr><td colspan="3">*Non-licensed practice owner</td></tr></table> <p>Source: Board Staff</p> | <i>Schedule of Licensees by Type</i> <i>As of July 1, 2008</i> | | | Type License | Number | <i>Code of Alabama 1975,</i> | Active | 730 | §34-24-161(b) | Retired | 10 | §34-24-165(c) | Inactive | 60 | §34-24-165(f) | Permit Holder* | 23 | §34-24-123(b) | Total | 823 | | *Non-licensed practice owner | | |
| <i>Schedule of Licensees by Type</i> <i>As of July 1, 2008</i> | | | | | | | | | | | | | | | | | | | | | | | | | |
| Type License | Number | <i>Code of Alabama 1975,</i> | | | | | | | | | | | | | | | | | | | | | | | |
| Active | 730 | §34-24-161(b) | | | | | | | | | | | | | | | | | | | | | | | |
| Retired | 10 | §34-24-165(c) | | | | | | | | | | | | | | | | | | | | | | | |
| Inactive | 60 | §34-24-165(f) | | | | | | | | | | | | | | | | | | | | | | | |
| Permit Holder* | 23 | §34-24-123(b) | | | | | | | | | | | | | | | | | | | | | | | |
| Total | 823 | | | | | | | | | | | | | | | | | | | | | | | | |
| *Non-licensed practice owner | | | | | | | | | | | | | | | | | | | | | | | | | |
| Reciprocity | <p>Yes, if the applicant is licensed in another state that, in the opinion of the board, has standards of practice or licensure equal to or stricter than the requirements imposed by the board’s statutes.</p> <p><i>Code of Alabama 1975, §34-24-161(c)</i></p> <p>No formal reciprocal agreements with other states.</p> | | | | | | | | | | | | | | | | | | | | | | | | |
| Continuing Education | <p>Minimum of 18 hours of professional educational work.</p> <p><i>Code of Alabama 1975, §34-24-165(a)</i></p> | | | | | | | | | | | | | | | | | | | | | | | | |
| Employees | <p>The board employs one merit unclassified employee, two full-time merit system classified employees and one part-time merit system classified employee.</p> <p>The board may employ investigators, inspectors, attorneys, and any other agents, employees, and assistants as may from time to time be necessary.</p> <p><i>Code of Alabama 1975, §34-24-140(e)</i></p> | | | | | | | | | | | | | | | | | | | | | | | | |

| | |
|---------------------------------------|---|
| Legal Counsel | James S. Ward, Deputy Attorney General, a private attorney employed under a professional services contract. <i>Code of Alabama 1975, §34-24-140(e)</i> |
| Subpoena Power | Both persons and records <i>Code of Alabama 1975, §34-24-173(7)</i> |
| Internet Presence | www.chiro.alabama.gov – contains: <ul style="list-style-type: none"> • Contact Information • Board Members • Staff • Fees • Exam Dates • Alabama Doctors of Chiropractic • Continuing Education <ul style="list-style-type: none"> ➤ Alabama Law Seminar on Line Registration Form • Online services <ul style="list-style-type: none"> ➤ License verification ➤ License renewal ➤ Initial Facility Permitting • Public Notices (Open Meeting Notice) • Links to Related Websites • Forms |
| Attended Board Member Training | <ul style="list-style-type: none"> • Executive Secretary • 8 of 9 current board members • Staff member |
| <u>Financial</u> | |
| Source of Funds | Operating funds are derived from licensing and examination fees. <i>Code of Alabama 1975, §34-24-143</i> |
| State Treasury | Yes. The board utilizes Special Revenue Fund 402, Board of Chiropractic Examiners Fund. <i>Code of Alabama 1975, §34-24-143</i> |
| Unused Funds | Retained for subsequent appropriation and expenditure. |

SIGNIFICANT ITEMS

1. **State law does not authorize the board to require its additional mandatory licensing examination on Alabama law.** The board's Administrative Rule 190-X-2-.05(2) requires applicants for license to pass an Alabama Board Examination (Jurisprudence Exam), which tests applicants on state laws and regulations governing the practice of chiropractic in Alabama. The *Code of Alabama 1975*, Section 34-24-161(a through d) requires the board to issue a license upon successful completion of a national examination approved by the board. There is no statutory provision authorizing the board to require an additional Jurisprudence Exam. In various opinions, the attorney general has stated that administrative rules cannot be used to enlarge the law or confer authority where none exists in the law.

The board's licensing law in the *Code of Alabama 1975*, Section 34-24-161 provides that:

“(a) Each applicant, who matriculated into a chiropractic college after January 1, 1973, must pass parts one and two of the examination administered by the National Board of Chiropractic Examiners or other national examination as approved by the board.

(b) **The State Board of Chiropractic Examiners shall prescribe rules and regulations regarding which national examination shall be administered, the conduct of and times and places of examinations, and requirements for successful completion of examinations. A license shall be issued for each applicant who successfully completes the examination.**

(c) Irrespective of the requirements in subsections (a) and (b), the board may license an applicant if the applicant is licensed in another state that, in the opinion of the board, has standards of practice or licensure equal to or stricter than the requirements imposed by this article.

(d) Upon completion of all requirements for licensure an applicant shall be issued a license. The fee for issuance of a license shall not be more than fifty dollars (\$50), the exact amount to be established by the board. Each license shall be dated and numbered in the order of issuance and shall be signed by the executive secretary and the president of the board.”

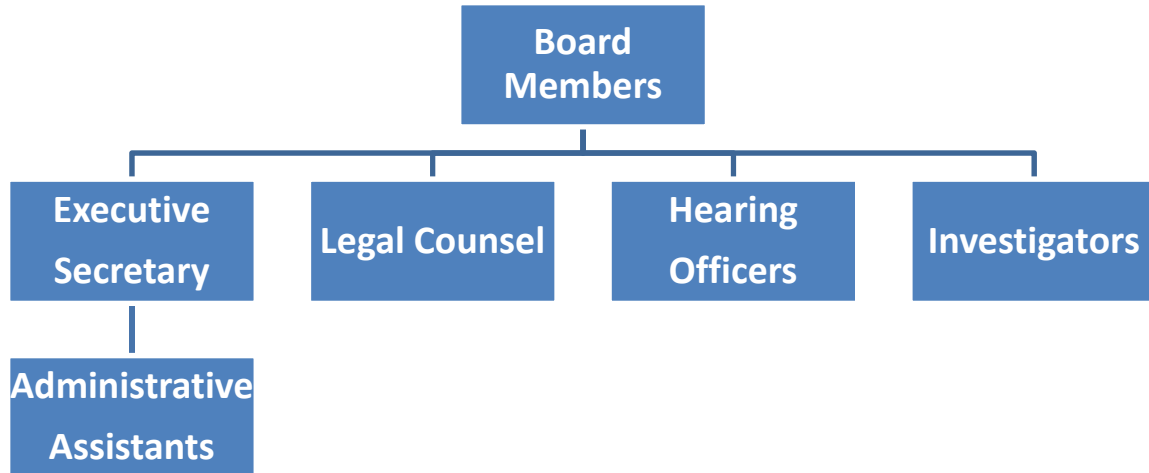
2. **A significant number of the board's licensees responding to our questionnaire indicated that the board's laws, rules, and policies are an unnecessary restriction or that requirements are irrelevant.** In response to the question, “Do you think any of the board's laws, rules, and policies are an unnecessary restriction on the practice of your profession?”, 31 of 62 respondents (50%) answered “Yes”. In response to the question, “Do you think any of the board's requirements are irrelevant to the competent practice of your profession?”, 25 of 62 respondents (40%) answered “yes”.

STATUS OF PRIOR FINDINGS

All prior findings have been resolved.

ORGANIZATION

Alabama Board of Chiropractic Examiners



PERSONNEL

Employees by Classification With Race and Gender Noted

| Classification of Employee | | | Race/ Gender |
|---|----------|---------------|-------------------------|
| Executive Secretary (Unclassified Merit System)) | 1 | Full time | W/F |
| ASA II (Classified Merit System) | 1 | Full time | W/F |
| ASA I (Classified Merit System) | 1 | Full time | W/F |
| ASA I (Classified Merit System) | 1 | Part-time (1) | W/F |
| Total Employees | 4 | | |
| Independent Contractors | | | |
| Investigator | 2 | As needed | W/M |
| Hearing Officer | 2 | As needed | W/M |
| Attorney | 1 | As needed | W/M |
| Director of Wellness Committee | 1 | As needed | W/M |
| Court Reporter | 1 | As needed | B/F |
| Total Independent Contractors | 7 | | |

W – White B - Black F – female M – male (1) - FTE 25%

PERFORMANCE CHARACTERISTICS

Number of Persons per Active Licensee in Alabama and Surrounding States

| | Alabama[^] | Georgia[*] | Florida[*] | Tennessee[*] | Mississippi[*] |
|--------------------------|----------------------------|----------------------------|----------------------------|------------------------------|--------------------------------|
| Population ^{**} | 4,627,851 | 9,544,750 | 18,251,243 | 6,156,719 | 2,918,785 |
| Chiropractors | 730 | 3,203 | 4,721 | 975 | 328 |
| Persons per Chiropractor | 6,340 | 2,980 | 3,866 | 6,315 | 8,899 |

[^] As of July 1, 2008

^{*} Federation of Chiropractic Licensing – Official Directory 2007-2008

^{**} From the U.S. Census July 1, 2007 estimate.

Number of Licensees (823) per Employee (3.25) – 253

Includes active, retired, inactive (non-resident) and non-licensed chiropractic practice owners

Operating Expenditures per License - \$292

Notification of Board Decisions to Amend Administrative Rules

The board complies with the requirements of the Administrative Procedure Act by publishing its intended actions regarding rules in the Alabama Administrative Monthly. Licensees may subscribe to receive notices of changes by Rule Subscription. The Alabama State Chiropractic Association (ASCA) is sent a complimentary copy of notices, which the association distributes to its members. Licensees are further notified by notices posted in the board's newsletter and on the board's website.

Complaints

Schedule of Complaints

| FISCAL YEAR ORIGINATED | COMPLAINTS RECEIVED | COMPLAINTS PENDING | AVERAGE TIME TO RESOLVE |
|-------------------------------|----------------------------|---------------------------|--------------------------------|
| 2006-2007 | 37 | 6 | 5 months |
| 2005-2006 | 29 | 9 | 7 months |
| 2004-2005 | 40 | 7 | 5 months |
| 2003-2004 | 55 | 14 | 4 months |

Complaint Process

| | |
|---|--|
| Investigation Performed by | <ul style="list-style-type: none"> ▸ Probable Cause Committee (2 licensed board members – chiropractic protocol)* ▸ Legal Counsel (statutory considerations) ▸ Executive Secretary/Staff (administrative processing) ▸ Investigator (field work) |
| Initial Documentation | The board requires the complaint to be in writing on a board-supplied complaint form, signed by the complainant. The complaint form submitted must be an original. Faxes are not accepted. There is no requirement that the signature be witnessed or notarized** |
| Disposition of complaint if formal hearing not held | Complaints are assigned to 2 board members. The 2 board members, in concert with board legal counsel, review the complaint to determine probable cause. If there is no probable cause for further action, a recommendation of no further action is presented to the board. If probable cause for further action exists, a notice of charges and a hearing date are sent to the accused. If the accused wants an informal settlement, terms are normally determined by opposing counsel. The settlement agreement is presented to the remaining board members for approval. Settlement negotiations are not allowed to extend beyond the hearing date set by the board (subject to the normal motions for continuances normally afforded defendants). |
| Anonymous complaints | The board does not pursue anonymous complaints regarding scope of practice issues. However, the board's enabling statutes and rules are specific in addressing advertising of chiropractic services. When the board receives anonymously submitted original improper advertisements (copies are not accepted) of a determinable source (Yellow Pages, newspaper, magazine – with the specific publisher identified), the board initiates complaint procedures to resolve the advertising infractions. |
| Investigating board member's status during hearing | Board members who investigate complaints are excluded from all proceedings after the notice of charges. |

* Three, two-member teams - The board president and consumer member are precluded from being Probable Cause Committee team members.

** According to the executive secretary, complaints are usually received by telephone at the board's office. The complainant's name and address are obtained, and a complaint form is mailed to the complainant. The Complaint Form is found at the board's website.

SMART BUDGETING

The Director of Finance implemented a system of budgeting named SMART, an acronym for Specific, Measurable, Accountable, Responsive, and Transparent. The SMART system requires each agency to submit performance goals and objectives to the Department of Finance - the goals to be stated as long-term, multi-year targets, which are to be achieved through accomplishment of stated objectives, which are single-year targets. The agency reports its progress toward achievement of the objectives on annual Quarterly Performance Reports, which are available to the public at the state's Internet website <http://www.smartbudgeting.alabama.gov/FormsDownload/FormSelect.aspx>.

The board provided information in a timely manner to the SMART budgeting analyst, as required, and completed the required forms. The agency's SMART Performance Reports for 2007 and 2008 are included in the appendices. The board's performance goals and objectives are shown as follows, along with the examiner's comments.

| 2007 GOALS | COMMENTS |
|---|--|
| 1. To conclude investigation of complaints in a timely manner {within 60 days} | The goal appears appropriate, but it needs a target date. |
| 2. To ensure only qualified people enter the profession | This is a statement of work to be done rather than a measure of how well it is done. There is no measurable long-term objective. |
| 3. To reduce the number of advertising complaints received through increase public awareness and better education of licensees of the Statutes and Rules. {by 50% } | The goal is reduction of advertising complaints by 50%. Increased public awareness and better education of licensees should be styled as strategies rather than as a goal. The goal needs a target date. |
| 4. To minimize the unauthorized practice of chiropractic. {less than 1 per year} | The board cannot know how many instances of unauthorized chiropractic occur. Also, this is not a reasonable level of performance. Any instance of unauthorized practice of chiropractic would exceed the goal of less than one per year. |
| 5. To automate as many forms and services as possible. | There is no measurable level of performance stated. The goal is too abstract. |

| 2007 OBJECTIVES | PERFORMANCE INDICATOR | PROJECTED | REPORTED | COMMENTS |
|--|------------------------------|------------------|-----------------|---|
| 1. Reduce the average time to resolve complaints to within 60 days | 40% within 60 days | 25 | 3 | The performance indicator contains the target level of performance that should have been the objective. The performance indicator should have been "%". The reported performance is stated in the number of complaints, but the target of 40% requires that actual performance be |

| | | | | |
|--|----|----|----|--|
| | | | | stated as a per cent rather than as a number of resolved complaints in order to be comparable. Records show that only 3 of 37 complaints were resolved within 60 days, which is 8%. The objective was not met. |
| 2. To reduce the number of complaints received | 80 | 60 | 37 | <p>The performance indicator is stated as the target level of performance that should have been of the objective. The performance indicator should have been “complaints”.</p> <p>It is not consistent to have a target level of 80 and a projected level of 60.</p> |

| 2008 GOALS (from 2008 Operations Plan) | COMMENTS |
|--|---|
| G1: To conclude investigation of complaints in a timely manner. | There is no long-term target level of performance. There is no target date for achievement. Timely is not defined. |
| G2: To ensure that only qualified people enter the profession. | This is a statement of normal work to be done rather than a measure of how well it is done. There is no measurable long-term target level of performance. There is no target date for achievement. |
| G3: To reduce the number of advertising complaints received through increased public awareness and better education of the licensees of the Statute and Rules. | There is no long-term target level of performance. There is no target date for achievement. The goal is reduction of advertising complaints. Increased public awareness and better education of licensees should be styled as strategies rather than as a goal. |
| G4 To automate as many forms and services as possible. | There is no long-term target level of performance stated. There is no target date for achievement. |

REGULATION IN CONJUNCTION WITH OTHER ENTITIES

Licensees of other healing arts professions, such as medical doctors and physical therapists may perform some procedures that also fall within the scope of chiropractic practice.

FINANCIAL INFORMATION

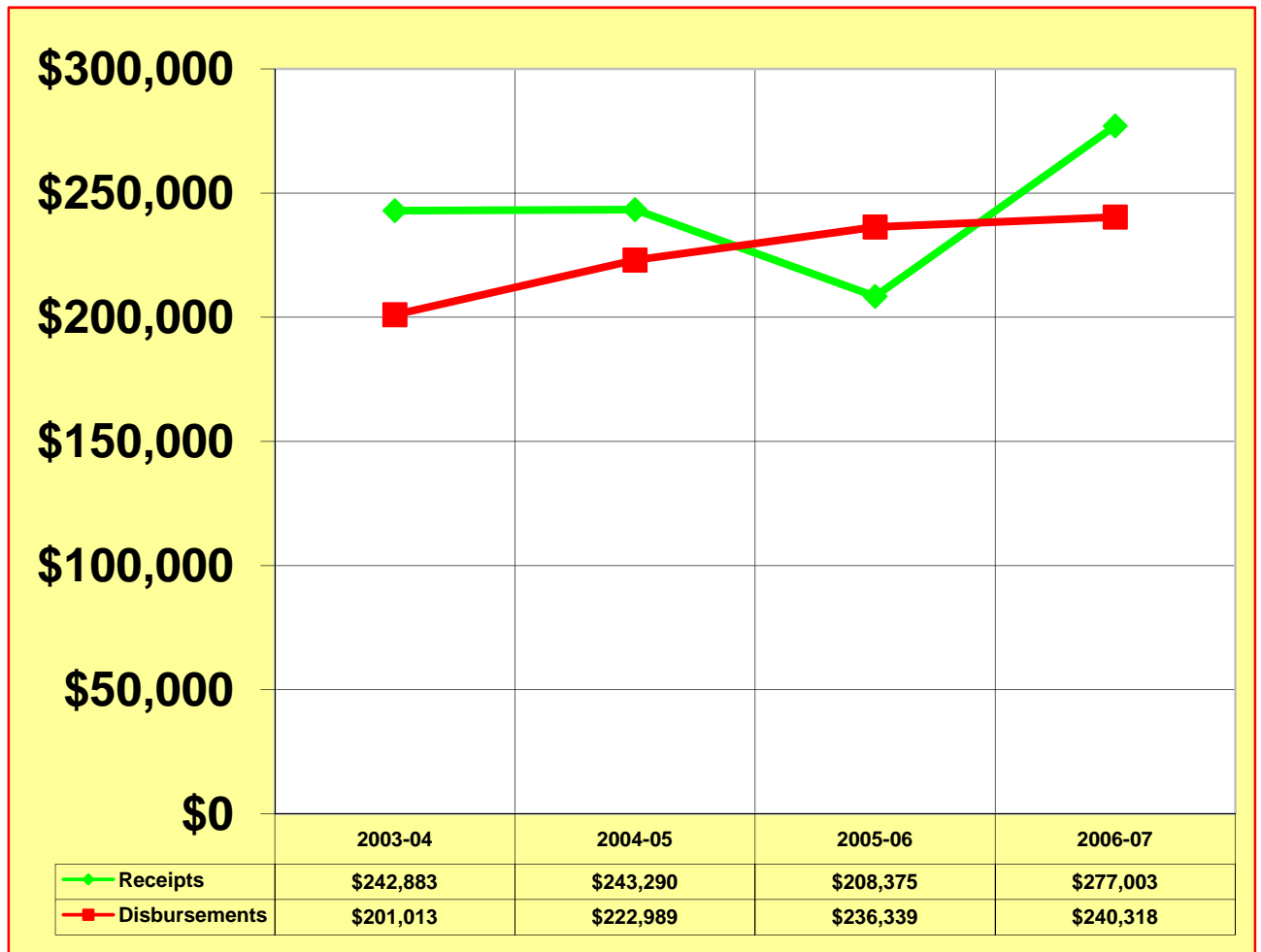
Schedule of Fees

| Fee | \$ Amount | <i>Code of Alabama 1975</i> | Administrative Rule | Comments |
|--|-----------------------|---|--|----------------------------------|
| License Application | 75 | 34-24-160 | 2.02 | Maximum 150 |
| Exam Application | 150 | 34-24-160 | 2.05 | |
| Original License | 50 | 34-24-161 | 2.06 | |
| Clinic Owner Non-licensed | 75 | 34-24-123(b) | 2.17 | Set by resolution |
| License Replacement | 25 | 34-24-162(e)(3) | 2.13 | Maximum 50 |
| Renewal – Active | 200 | 34-24-165(a) | 2.11 | Maximum 300 |
| Renewal – Retired | 100 | | 2.14 | Maximum = ½ Active License |
| Renewal - Inactive | 100 | 34-24-161(c) | 2.16 | ½ Active License |
| Status Change Fee | 100 | | 2.16 | |
| Late Fees | 50 100 250 | 34-24-165(a)(1) 34-24-165(a)(2) 34-24-165(a)(3) | 2.11 | <30 days <60 days <90 days |
| Reinstatement | 100 | 34-24-172 34-24-176 | 2.12 | >90 days |
| Preceptor Dr. (per month) | 25 | 34-24-145(c) | 7.01 | Paid quarterly, in advance |
| Disciplinary Fines | 2,000 1,000 500 | 34-24-170 “ “ | 4.06(2)(a) 4.06(2)(b) 4.06(2)(c) | |
| Disciplinary Costs | cost | 34-24-170 | 4.07(1)(a) | Maximum \$8,000 |
| Annual Directory | 50 | 34-24-140(g) | 1.13 | Set by Resolution |
| Cost Recovery Charges | | | | |
| CCE Provider/course approval application | 50 | Cost of making and mailing 7 copies each of the applicable cover letter and all attachments | | |
| 5 yr CCE History | 25 | Computer printout, 5 yr. CE History per licensee | | |
| Licensee Listing | 40 | | | |
| Mailing Labels | 55 | | | |
| License Verification | 10 | | | |
| Copy of Rules | 50 | | | |
| Copies (Other) | 0.50 cents | Per page plus postage | | |
| NSF Fee | Max Allowed | <i>Code of Alabama 1975</i>, Section 8-8-15 | | |
| Fee to resend mail | 25 | Cost associated with re-mailing of materials due to incorrect address of licensee | | |
| Proposed Rule Subscription | 10 | Cost for mailing proposed rules(annual subscription) | | |

Schedule of Cash Receipts, Disbursements and Balances

| | 2006/2007 | 2005/2006 | 2004/2005 | 2003/2004 |
|--|---------------|---------------|---------------|---------------|
| <u>Receipts</u> | | | | |
| Fees and Fines | \$ 277,003.38 | \$ 208,375.02 | \$ 243,289.60 | \$ 242,883.30 |
| <u>Disbursements</u> | | | | |
| Personnel Costs | 104,801.24 | 105,060.00 | 83,216.20 | 78,537.80 |
| Employee Benefits | 31,337.57 | 28,402.71 | 25,392.66 | 21,301.70 |
| Travel In-State | 14,504.10 | 16,639.54 | 15,814.09 | 16,961.21 |
| Travel Out-of-State | 2,793.80 | 2,007.30 | 2,562.91 | |
| Repairs and Maintenance | 1,480.00 | 1,680.07 | | 135.16 |
| Rentals and Leases | 12,047.25 | 10,893.45 | 10,890.32 | 10,410.00 |
| Utilities and Communications | 11,609.41 | 12,090.53 | 11,242.51 | 11,398.87 |
| Professional Services | 51,818.05 | 49,810.33 | 64,350.74 | 52,144.16 |
| Supplies, Materials and Operating Expenses | 9,926.88 | 9,754.95 | 9,519.82 | 10,124.12 |
| Total Disbursements | 240,318.30 | 236,338.88 | 222,989.25 | 201,013.02 |
| Excess (Deficiency) of Receipts over Disbursements | 36,685.08 | (27,963.86) | 20,300.35 | 41,870.28 |
| Cash Balance at Beginning of Year | 205,827.86 | 233,791.72 | 213,491.37 | 171,621.09 |
| Cash Balance at End of Year | 242,512.94 | 205,827.86 | 233,791.72 | 213,491.37 |
| Reserved for Year-End Obligations | (13,716.19) | (16,181.27) | (15,832.60) | (37,637.64) |
| Unobligated Cash Balance at Year-End | \$ 228,796.75 | \$ 189,646.59 | \$ 217,959.12 | \$ 175,853.73 |

Receipts vs. Operating Disbursements (chart)



According to the executive secretary, the reduction in receipts for 2005-06 and the increase in receipts for 2006-07 were due to fluctuations in fines received.

QUESTIONNAIRES

Board Member Questionnaire

Of the 9 board members sent questionnaires, 6 responded.

1. What are the most significant issues currently facing the Board of Chiropractic Examiners and how is the board addressing these issues?

Board Member #1 – I’ve only been with the Board a few months and I don’t feel qualified to answer.

Board Member #2 – Licensure of chiropractic assistants

Board Member #3 – The possibility of physical therapist performing chiropractic adjustments without a license. The Board Attorney is looking into it.

Board Member #4 – There are a few issues that the Board evaluated in the last few years. One is the licensing of chiropractic assistants (CA). Another issue was a revamping of the advertising rule, which was done earlier this year and came into effect in April 2008. Additionally, the Board is very aware of some schemes to misuse public records. We are working diligently on curbing fraudulent use of public information by unscrupulous clinic owners to entice prospective patients to seek care following questionable motor vehicle accident injury. The Board was the first to initiate investigations on such activities and help spearhead further investigation from other agencies. I personally spoke to some of our legislators about this issue, and I hope the legislation can be enacted in the coming year to protect against such misuse of public records.

Board Member #5 – One of our goals is to protect the public (consumers) from errors or fraudulent actions in advertising by chiropractic doctors and clinics. We have addressed this problem by clarifying and simplifying our advertising rules.

Board Member #6 – We are working on possible licensure for Chiropractic Assistants.

2. What changes to the Board’s laws are needed?

Board Member #1 – I’ve only been with the Board a few months and I don’t feel qualified to answer.

Board Member #2 – Entrance exam – graduate level exam

Board Member #3 – We need to change the law to include chiropractic assistant certification.

Board Member #4 – If our study of CA licensing shows a definite need to license these individuals, it would require a change to the present chiropractic law that would allow the Board to test and license chiropractic assistants.

Board Member #5 – In the interest of raising chiropractic standards, we have discussed requiring prospective chiropractic students to pass a standardized entrance exam (similar to medical and law school requirements) in order to enter chiropractic college. This would require a change in our laws.

Board Member #6 – We will need a law change to address the licensure of chiropractic assistants.

3. Is the Board adequately funded?

5 Yes

1 No

0 Unknown

0 No Opinion

Board Member #4 – At the present time we are properly funded. However, some readjustments may be needed in the future as I anticipate that the number of complaints from violations to drop as a result of the Board's proactive steps to better educate its licensees about the Alabama Chiropractic Code, Rules and Regulations. A significant amount of funds come from fines and with an expected decrease in complaints, I do expect some decrease in revenue in the coming years that may affect our overall budget.

4. Is the Board of Chiropractic Examiners adequately staffed?

6 Yes

0 No

0 Unknown

0 No Opinion

Board Member #3 – With the addition of another employee I feel the Board has adequate staffing at this time.

Board Member #4 – The Board just added a needed employee this year to handle specific aspect of licensing duties. This should allow the Board to run smoothly for the next several years.

Board Member #5 – We have just voted to add a third employee, whose services are much needed.

5. What is the purpose of your fiscal year end balance of unobligated funds?

Board Member #1 – I've only been with the Board a few months and I don't feel qualified to answer.

Board Member #2 – Rolls over to the next year in case receipts are lower

Board Member #3 – This is to cover unexpected expenses or a decrease in expected receipts.

Board Member #4 – As in the past, the balance of funds is roll over to the next fiscal year. The fund are put in reserve and can then be use in the event of unexpected expenses such as complex court proceeding. We presently have such a case and it could require additional funds to see these cases resolve in higher courts.

Board Member #5 – Our year-end balance rolls over as a “rainy day fund” in case we have unanticipated expenses or lower receipts in the next year.

Board Member #6 – The yearend balance rolls over as a reserve to allow for unexpected expenses such as large law suits. It also allows for less than anticipated receipts for the upcoming year.

Licensed Chiropractor Questionnaire

Of the 100 licensees sent questionnaires, 62 responded.

- 1. Do you think regulation of your profession by the Alabama Board of Chiropractic Examiners is necessary to protect public welfare?**

53 Yes 7 No 1 Unknown 1 No Opinion

- 2. Do you think any of the Board's laws, rules, and policies are an unnecessary restriction on the practice of your profession?**

31 Yes 27 No 1 Unknown 2 No Opinion 1 No Response

Licensee #1 – Advertising laws

Licensee #9 – Possibly

Licensee #34 – Some advertising rules are too restrictive.

Licensee #48 – Some of the advertising laws I feel are unnecessary, but they are working in the right direction w/this latest change.

- 3. Do you think any of the Board's requirements are irrelevant to the competent practice of your profession?**

25 Yes 33 No 1 Unknown 1 No Opinion 2 No Response

Licensee #17 – Advertising

Licensee #34 – Unknown & no opinion

Licensee #58 – No response

- 4. Are you adequately informed by the Board of changes to and interpretations of Board positions, policies, rules and laws?**

56 Yes 4 No 1 Unknown 1 No Opinion

Licensee #9 – I think so but not sure

Licensee #10 – Although law governing chiropractic in this state is convoluted & could be written more clearly

Licensee #36 – Board counsel wills undue influence on Board members, crushing dissent and restrained clinical opinion making unilateral independent decisions as judge & jury & dictating to the Board their position. Counsel also has same pattern as he represents 2 other professional boards & conflict makes him more money.

5. Has the Board performed your licensing and renewal in a timely manner?

62 Yes **0** No **0** No Opinion

Licensee #5 – Except 06

6. Do you utilize the Board of Chiropractic Examiners' online renewal system?

53 Yes **9** No

Licensee #2 – We are penalized if we don't.

Licensee #47 – 2007-2008

If yes, were you satisfied with the process? If not, what problems did you experience?

46 Yes **4** No **3** N/A **9** No Response

Licensee #2 – There should be no discrimination against mail in renewals.

Licensee #5 – Except 06 renewal was done unfairly and they received many late fees because of not sending a renewal notice like they always had before.

Licensee #47 – I don't remember the problem but it was handled effectively.

Licensee #54 – Had to mail a copy of business license after I renewed online - Would not accept payment at their office without a card for renewal - Would have to request card by mail.

Licensee #56 – Basically forced to renew online - Did not want to give credit card number online

Licensee #62 – Too long – rather receive by mail!

7. Do you consider mandatory continuing education necessary for competent practice?

51 Yes **10** No **1** No Response

Licensee #47 – I don't believe that cont. ed. makes a D.C. competent. What it does do is bring you up to date on any new events, etc; let you communicate with a large group of doctors.

8. Has the Board approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours?

53 Yes **8** No **1** Unknown **0** No Opinion

Licensee #9 – Would like to see more

Licensee #27 – Could be better

Licensee #34 – Finally – Little slow on the law hrs seminars

Licensee #40 – Would like more nationally known speakers – Please call and I would be happy to help

9. What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Board doing to address the issue(s)?

Licensee #1 – Advertising - The Board tried to make recent changes but the wording is still vague.

Licensee #3 – Fraud in practice & advertising - They are not doing much because the court system has their hands tied. They have no strong authority to enforce the rules.

Licensee #4 – Board needs to be moved to Montgomery.

Licensee #5 – Inequities in insurance coverage & grant monies available to D.C.'s also abuse in charges by some D.C.'s. I doubt the Board is doing anything, not their area of concern.

Licensee #6 – No response

Licensee #7 – I don't know. I am new to the profession here in Alabama.

Licensee #8 - *Discrimination by BCBS*Why PTs are paid more than us *Payment in timely manner

Licensee #9 –Performing of chiropractic adjustments by the physical therapists - Not sure what the Board is doing. I shall ask

Licensee #10 – Insurance & Medicare/caid reimbursement – Board is not directly active addressing this issue

Licensee #11 – No response

Licensee #12 – No response

Licensee #13 – No response

Licensee #14 – (1) Insurance (2) Public opinion

Licensee #15 – Don't know

Licensee #16 – Staff member could be nicer & more organized. She has to be the most unhappy employee the Board has ever hired. No way would I have her on my staff.

Licensee #17 – BC/BS plans that have very little chiropractic coverage, nothing

Licensee #18 – (a) OIG's systematic post payments audits procedure – proper documentation (b) I'm afraid not much

Licensee #19 – The Board's doing a good job.

Licensee #20 – No response

Licensee #21 – No response

Licensee #22 – Unknown

Licensee #23 – No opinion

Licensee #24 – Medicare not paying for x-rays and exams in chiropractic clinics, poor paying BC/BS policies – I'm not sure that the Board can change these problems.

Licensee #25 – No response

Licensee #26 – Making sure chiropractic care is covered by insurance companies in a fair way to patients and chiropractors.

Licensee #27 – Protecting and maintaining our rights to practice our profession and to be paid by the insurances in Alabama

Licensee #28 – Unscrupulous advertising/police reports – They are trying as hard as they can to curtail these activities

Licensee #29 – Advertising – How to stop abusers without limiting the honest practitioners – I don't have an answer to this problem.

Licensee #30 – A. Keeping people honest B. The best they can

Licensee #31 – No response

Licensee #32 – Insurance equality – Board has successfully helped educate

Licensee #33 – Expansion of scope – The board is doing nothing

Licensee #34 – The negative image chiropractic seems to be portrayed from the media! The State Assoc has started a campaign to correct problem. The Board I don't know

Licensee #35 – Negative ads – A very good job

Licensee #36 – The income reduction due to restricted insurance reimbursement – Board nothing to address this, but seeks further “shoot Drs in the foot relative to business increase by advertising.

Licensee #37 – Our lack of corporate initiative in regard to health promotion and wellness for the people of Alabama – I'm not aware of anything that the board is doing on this issue.

Licensee #38 – The value of our profession in the key role of prevention is not supported or voiced enough!!

Licensee #39 – Insurance company restriction to chiropractic

Licensee #40 – Pts, BCBS federal

Licensee #41 – Increasing chiropractic scope of practice, such as allowing us to prescribe muscle relaxers, anti-inflammatory, pain medication. Making it allowable to integrate our practice with other healthcare providers – Nothing

Licensee #42 – 1 BCBS health insurance is getting worse each year for chiropractic services. 2 There are way too many chiropractors in this state spending too much time worrying about what others are doing esp. advertising.

Licensee #43 – No response

Licensee #44 – I don't see how the Board can help since its job is to protect the public.

Licensee #45 – No response

Licensee #46 – No response

Licensee #47 – One issue is the acceptance & greater utilization of our services and another is the insurance companies under payment compared to other professions. The AL State Association is working on these.

Licensee #48 – Insurance inequality – Not sure if this is an ABCE issue

Licensee #49 – Insurance discrimination & cut backs – They are doing nothing.

Licensee #50 – The problem for chiropractors in the state of Alabama in the gutless position the board takes in regards workman's comp and insurance payments to chiropractors. Insurance companies are managed by M.D.s and some partially owned by M.D.s. The board seems more worried about fining chiropractors for advertising problems than furthering the profession or fighting for decent payments to D.C. from major medical carriers.

It is disturbing when I can only charge \$50.00 for a focused examination and receive \$29 for a standard office visit. G.P. MDs in Alabama are receiving \$200+ for the same examination and \$80+ for an office visit. The payment scale for G.P. M.Ds is not even close to what Alabama Chiropractors can receive.

If the board wants to be effective it can start by worrying about fail payment to this state's chiropractors and getting chiropractic representation for workman comp cases instead of kiss the butts of the state officials who could care less if we are treated fairly or go out of business.

Licensee #51 – The Alabama Board has had severe advertising rules that has hurt chiropractic in Alabama.

Licensee #52 – Proliferation of decompression therapy (Bad) = Board is trying to insure honest claims about this farce.

Licensee #53 - ?

Licensee #54 – Not enough public awareness of what chiropractic can do to improve their health. Easy up on advertising restrictions

Licensee #55 – Politics

Licensee #56 – Health insurance – don't know what they are doing

Licensee #57 – A) equal compensation with the MD's and DO's B) unsure

Licensee #58 – No response

Licensee #59 – No response

Licensee #60 – No response

Licensee #61 – Education of the physician. The Board made a mandatory for a new D.C. to have a B.S., B.A. degree. All Board members should have college degrees. The Board members don't in most cases.

Licensee #62 – Too strict on advertising!

10. Do you think the Board and its staff are satisfactorily performing their duties?

47 Yes **2** No **9** Unknown **2** No Opinion **2** No Response

Licensee #5 – Except in the few dealings I've had with them I have been met with an arrogant attitude instead of a helpful one.

Licensee #9 – Except for #9 above

Licensee #17 – yes & no

Licensee #34 – Sometimes it seems like people get stuck on petty differences. Professionals should be able to agree to disagree & move on.

Licensee #37 – Turn around time on approval/disapproval for advertisements has been a problem in the past.

11. Has any member of the Board or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a service for you?

1 Yes **61** No

Licensee #8 – At a Ross Bridge convention - Giving money to legislature (lobbyist) Hello!!

Licensee #61 – An attorney solicited money to make a board issue go away. He wanted \$10,000. I got another attorney after him.

Complainant Questionnaire

Of the **30** complainants sent questionnaires, **17** responded.

1. Was your complaint filed with the Alabama Board of Chiropractic Examiners by:

13 Mail **0** Phone **0** Fax **1** Other **2** Unknown **0** Email

Complainant #10 – I have never filed a complaint with the Board of C. E.

Complainant #17 – Certified mail

2. Was receipt of your complaint acknowledged?

Yes No Unknown

If yes, approximately how long after you filed your complaint were you contacted by the Board?

3 Immediately **4** Within 10 days **0** Within 20 days

3 Within 30 days **3** More than 30 days **3** Unknown

Complainant #4 – 60 to 90 days I had to keep calling them.

3. Was the employee who responded to your complaint knowledgeable and courteous?

2 Knowledgeable **3** Courteous **4** Neither **7** Unknown

4. Did the Board communicate the results of investigating your complaint to you?

10 Yes **4** No **2** Unknown

Complainant # 4 – When I called them

Complainant #17 – After I requested updates

5. Do you think the Board did everything it could to resolve your complaint?

7 Yes **6** No **3** Unknown

6. Were you satisfied with your dealings with the Board?

9 Yes

6 No

1 Unknown

Complainant #1 – I assumed they ruled in my favor since Dr. XXXXX quit billing me.

Complainant #3 – Three chiropractors were consulted & one even came to my house. They all 3 said Dr. XXXXX acted very inappropriately.

Complainant #13 – They listed my complaint as damages due to services unrelated to chiropractic work. My complaint was on unprofessional conduct by doctor. (Dr. had an affair with my husband who was also a patient, which ended in a divorce.

Complainant #14 – Included a letter that the chiropractor was not qualified in the area of lasers. The letter is on file for reference.

Complainant #17 – Documentation supporting the complaint is on file.

APPENDICES

SMART Performance Reports

| Smart Quarterly Performance Report | | | | | | | | | | | |
|--|--|---------------|--------|----------------|--------|---------------|--------|----------------|--------|-----------|---------|
| Fiscal Year: 2007 | | | | | | | | | | | |
| Agency: 306 Chiropractic Examiners, Alabama State Board of | | | | | | | | | | | |
| Org: | | | | | | | | | | | |
| Program: 663 PRO AND OCCU LICENSING AND REG | | | | | | | | | | | |
| Activity: | | | | | | | | | | | |
| Performance Measures | | First Quarter | | Second Quarter | | Third Quarter | | Fourth Quarter | | Annual | |
| Workload/Cost Factor | Performance Indicator | Projected | Actual | Projected | Actual | Projected | Actual | Projected | Actual | Projected | Actual |
| WC1: # of licenses (DC and Non licensed clinic owners) | 850 | 875 | 801 | 875 | 798 | 880 | 821 | 880 | 799 | 880 | 819 |
| WC2: # of complaints received | 55 | 20 | 5 | 20 | 10 | 25 | 15 | 25 | 7 | 90 | 37 |
| Spending | Performance Indicator | Projected | Actual | Projected | Actual | Projected | Actual | Projected | Actual | Projected | Actual |
| SP1: Increase spending by no more than 10% | Board meetings, hearings and seminars, etc | 83,099 | 60,396 | 73,002 | 48,369 | 72,732 | 58,413 | 69,717 | 53,860 | 298,550 | 255,890 |
| Staffing | Performance Indicator | Projected | Actual | Projected | Actual | Projected | Actual | Projected | Actual | Projected | Actual |
| ST1: Increase staff by 25 % | 3 staff members | 2.25 | 2.25 | 2.25 | 2.25 | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 |
| Efficiency | Performance Indicator | Projected | Actual | Projected | Actual | Projected | Actual | Projected | Actual | Projected | Actual |
| EF1: Reduce the average time to resolve complaints to within 60 days | 40% within 60 days | 10 | 0 | 5 | 1 | 5 | 1 | 5 | 1 | 25 | 3 |
| Quality | Performance Indicator | Projected | Actual | Projected | Actual | Projected | Actual | Projected | Actual | Projected | Actual |
| QU1: To reduce the number of complaints received | 80 | 10 | 5 | 20 | 10 | 15 | 15 | 15 | 7 | 60 | 37 |

| |
|--|
| How have policy decisions and budget determinations made by the governor and the legislature in the fiscal year 2006-07 affected your agency in meeting its desired accomplishments and services? |
| No Answer Available |
| What administrative improvements did your agency make in fiscal year 2006-07 and what potential improvements do you foresee for future years? Include suggested changes in legislation or administrative procedures which would aid your agency in these improvements. |
| No Answer Available |

Friday, May 23, 2008
EBO Form 10

FY 08 SMART Quarterly Performance Report

Page 2 of 5

Basic Agency

| Agency: 306 - Chiropractic Examiners, Alabama State Board of | | | | | Program: 653 - PRO AND OCCU LICENSING AND REG | | | | | | |
|---|--|---------------|--------|----------------|--|---------------|----------|----------------|----------------------|--------|----------|
| Organization: - | | | | | Activity: - | | | | | | |
| Key Goal: | | | | | | | | | | | |
| Goal 1 | To conclude investigation of complaints in a timely manner | | | | | | | | Governor's Priority: | 4 | |
| Objectives and Quarterly Targets: | | | | | | | | | | | |
| Performance Measures | | First Quarter | | Second Quarter | | Third Quarter | | Fourth Quarter | | Annual | |
| Objectives | Unit of Measure | Target | Actual | Target | Actual | Target | Actual * | Target | Actual * | Target | Actual * |
| (O1-Efficiency) Reduce the average time to resolve complaints to within 60 days | number resolved in less than 60 days | 5 | 1 | 10 | 0 | 5 | 0 | 5 | 0 | 25 | 0 |
| * Actual performance data is not currently available for this quarter. | | | | | | | | | | | |

| | | | | | | | | | | | |
|--|--|---------------|--------|---|--------|---------------|----------|----------------|----------------------|--------|----------|
| Agency: 306 - Chiropractic Examiners, Alabama State Board of | | | | Program: 653 - PRO AND OCCU LICENSING AND REG | | | | | | | |
| Organization: - | | | | Activity: - | | | | | | | |
| Key Goal: | | | | | | | | | | | |
| Goal 2 | To ensure that only qualified people enter the profession. | | | | | | | | Governor's Priority: | 5 | |
| Objectives and Quarterly Targets: | | | | | | | | | | | |
| Performance Measures | | First Quarter | | Second Quarter | | Third Quarter | | Fourth Quarter | | Annual | |
| Objectives | Unit of Measure | Target | Actual | Target | Actual | Target | Actual * | Target | Actual * | Target | Actual * |
| (O1-Quality) Increase staff by 25% | persons | 3 | 3 | 3 | 3 | 3 | 0 | 3 | 0 | 3 | 0 |
| * Actual performance data is not currently available for this quarter. | | | | | | | | | | | |

| | | | | | | | | | | | | |
|--|---|-------------------------------|--------|---|--------|---------------|--------|----------------|----------------------|----------|--------|----------|
| Agency: 306 - Chiropractic Examiners, Alabama State Board of | | | | Program: 653 - PRO AND OCCU LICENSING AND REG | | | | | | | | |
| Organization: - | | | | Activity: - | | | | | | | | |
| Key Goal: | | | | | | | | | | | | |
| Goal 3 | To reduce the number of advertising complaints received through increased public awareness and better education of licensees of the Statutes and Rules. | | | | | | | | Governor's Priority: | | 4 | |
| Objectives and Quarterly Targets: | | | | | | | | | | | | |
| Performance Measures | | First Quarter | | Second Quarter | | Third Quarter | | Fourth Quarter | | Annual | | |
| Objectives | | Unit of Measure | Target | Actual | Target | Actual | Target | Actual * | Target | Actual * | Target | Actual * |
| (O1-Quality) To reduce the number of complaints received | | number of complaints received | 15 | 4 | 15 | 5 | 15 | 0 | 15 | 0 | 60 | 0 |
| * Actual performance data is not currently available for this quarter. | | | | | | | | | | | | |

| | | | | | | | | | | | |
|--|---|---------------|--------|---|--------|---------------|----------|----------------|----------------------|--------|----------|
| Agency: 306 - Chiropractic Examiners, Alabama State Board of | | | | Program: 653 - PRO AND OCCU LICENSING AND REG | | | | | | | |
| Organization: - | | | | Activity: - | | | | | | | |
| Key Goal: | | | | | | | | | | | |
| Goal 4 | To automate as many forms and services as possible. | | | | | | | | Governor's Priority: | 1 | |
| Objectives and Quarterly Targets: | | | | | | | | | | | |
| Performance Measures | | First Quarter | | Second Quarter | | Third Quarter | | Fourth Quarter | | Annual | |
| Objectives | Unit of Measure | Target | Actual | Target | Actual | Target | Actual * | Target | Actual * | Target | Actual * |
| (O1-Efficiency) Add email notification of deadlines and links to on line processes | email notice | 600 | 1,344 | 600 | 0 | 600 | 0 | 600 | 0 | 600 | 0 |
| * Actual performance data is not currently available for this quarter. | | | | | | | | | | | |

Enabling Statutes

ARTICLE 4. CHIROPRACTORS.

REFERENCES

ADMINISTRATIVE CODE

2 Ala. Admin. Code 190-X-5-.01 et seq., State Board of Chiropractic Examiners;
Professional Conduct.

DIVISION 1. GENERAL PROVISIONS.

REFERENCES

CROSS REFERENCES

As to licenses for chiropractors, see § 40-12-136.

§ 34-24-120. "Chiropractic" defined; authority of licensed chiropractor.

Historical Notes References

(a) The term "chiropractic," when used in this article, is hereby defined as the science and art of locating and removing without the use of drugs or surgery any interference with the transmission and expression of nerve energy in the human body by any means or methods as taught in schools or colleges of chiropractic which are recognized by the State Board of Chiropractic Examiners.

(b) Any chiropractor who has been certified and licensed by the State Board of Chiropractic Examiners may examine, analyze and diagnose the human body and its diseases by the use of any physical, clinical, thermal or radonic method, and the use of X-ray diagnosing, and may use any other general method of examination for diagnosis and analysis taught in any school of chiropractic recognized by the State Board of Chiropractic Examiners.

(c) Chiropractors certified and licensed by the State Board of Chiropractic Examiners may practice chiropractic as set forth in subsections (a) and (b) of this section and may also recommend the use of foods and concentrates, food extracts, and may apply first aid and hygiene, but chiropractors are expressly prohibited from prescribing or administering to any person any drugs included in materia medica, except as herein provided, from performing any surgery, from practicing obstetrics or from giving X-ray treatments or

treatments involving the use of radioactive materials of any description.
(Acts 1959, No. 108, p. 612, § 1; Acts 1989, No. 89-237, p. 321, § 2.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

Acts 1993, No. 93-150, § 2, provides: "The existence and functioning of the State Board of Chiropractic Examiners, created and functioning pursuant to Sections 34-24-120 to 34-24-145, inclusive, is continued, and those code sections are expressly preserved."

REFERENCES

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons 6(1), 10.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 2-3, 5, 11, 14-15, 28, 53, 57.

§ 34-24-121. Advertising. [Historical Notes](#) [References](#)

The State Board of Chiropractic Examiners shall have the right to regulate the advertising of chiropractic services by chiropractors within the limits prescribed by this article and the rules and regulations governing the practice of chiropractic in this state.
(Acts 1959, No. 108, p. 612, § 22; Acts 1989, No. 89-237, p. 321, § 2.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

ADMINISTRATIVE CODE

2 Ala. Admin. Code 190-X-5-.04, Board of Chiropractic Examiners; Professional Conduct: Advertising.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒5(1), 10.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 12-13, 18, 53, 57.

§ 34-24-122. Rights and duties of chiropractors. [Historical Notes](#) [References](#)

Chiropractors who have complied with the provisions of this article shall have the right to treat patients according to specific chiropractic methods and shall observe state, county and municipal public health regulations, reporting to the proper health officers the same as other practitioners. Chiropractors shall not prescribe or administer medicine to patients, perform surgery, nor practice obstetrics or osteopathy.

(Acts 1959, No. 108, p. 612, § 9; Acts 1989, No. 89-237, p. 321, § 2.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒6(1), 10.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 2-3, 5, 11, 14-15, 28, 53, 57.

§ 34-24-123. License requirements under article; permit requirement for nonlicensed owner of chiropractic practice. [Historical Notes](#) [References](#)

(a) It shall be unlawful for any person to practice chiropractic unless he or she shall have first obtained a valid license as provided in this article and possesses all the qualifications prescribed by the terms of this article. Any person who shall practice or attempt to practice chiropractic without such a license or any person who shall buy or fraudulently obtain such a license or shall violate any of the terms of this article, or shall use the title "chiropractic," "D.C." or any word or title to induce the belief that he or she is engaged in the practice of chiropractic, without first complying with the provisions of this article, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or by imprisonment in the county jail for not less than 30 days nor more than one year, either or both, at the discretion of the court. All subsequent offenses shall be separate and distinct offenses and punishable in like manner.

(b) It shall be unlawful for any person who is not otherwise licensed by the board to

own, in whole or in part, any chiropractic practice unless he or she shall have first obtained a valid permit in the name of the chiropractic practice or office. Employment of a chiropractor by a hospital, as defined in Section 22-21-7, shall be excluded from the requirements of this subsection. The board shall establish a reasonable fee for the issuance and renewal of the permit, which shall be renewable annually and shall provide a grace period for any permit to be renewed in the same manner as provided for licensees in Section 34-24-165. The holder of a permit issued pursuant to this subsection shall be subject to this article and any rules or regulations issued pursuant thereto. (Acts 1959, No. 108, p. 612, § 20; Acts 1989, No. 89-237, p. 321, § 2; Act 2004-442, p. 780, § 1; Act 2006-295, p. 602, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 2004 amendment, effective May 13, 2004, designated subsection (a) and added subsection (b); in subsection (a) inserted "or she" in two places.

The 2006 amendment, effective July 1, 2006, in subsection (a) substituted "one hundred dollars (\$100) nor more than five hundred dollars (\$500)" for "\$100.00 nor more than \$500.00"; and in subsection (b) inserted "and renewal", and inserted "and shall provide a grace period for any permit to be renewed in the same manner as provided for licensees in Section §34-24-165".

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

ADMINISTRATIVE CODE

2 Ala. Admin. Code 190-X-2-.17, Board of Chiropractic Examiners; Licensure: Non-licensed Chiropractic Practice Ownership.

2 Ala. Admin. Code 190-X-4-.06, Board of Chiropractic Examiners; Disciplinary Actions: Discipline.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒6(1).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 2-3, 5, 11, 14-15, 28.

§ 34-24-124. Injunctive action. [Historical Notes](#)

When it appears to the State Board of Chiropractic Examiners that any person is violating any of the provisions of this article, the board may in its own name bring an action in the circuit court for an injunction, and the court may enjoin any person from violating this article regardless of whether proceedings have been or may be instituted

before the board or whether criminal proceedings have been or may be instituted. For purposes of this section, a person shall be deemed to include any individual, firm, partnership, corporation, professional association, professional corporation, or other entity.

(Act 2006-295, p. 602, § 2.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective July 1, 2006.

DIVISION 2. BOARD OF CHIROPRACTIC EXAMINERS.

REFERENCES

ADMINISTRATIVE CODE

2 Ala. Admin. Code 190-X-1-.01 et seq., Board of Chiropractic Examiners; Organization, Administration and Procedure.

§ 34-24-140. Board of Chiropractic Examiners -- Creation; composition; powers and duties. [Historical Notes](#) [References](#) [Annotations](#)

(a) There is created and established a State Board of Chiropractic Examiners. The board shall be composed of nine members. Eight members of the board shall be active licensed chiropractors elected as provided in this section. Seven of the elected members shall be elected one from each congressional district in this state except as otherwise provided in Section 34-24-141. Each of the members elected from congressional districts shall be a resident of the congressional district from which elected. One elected member of the board shall be elected from the state at-large and shall be an African-American. Each elected member of the board shall be all of the following: A resident of Alabama who has resided in this state for at least five years; a graduate of a chartered chiropractic school or college, which required actual attendance in the school as a prerequisite to graduation; currently engaged in the clinical practice of chiropractic and has been engaged in the clinical practice in this state for at least the five immediately preceding years; of good moral character; and must not be presently on probation relating to the practice of chiropractic in any state including this state.

(b) One member of the board shall be a consumer member of the board appointed by the Governor. Neither the consumer member, nor his or her spouse, shall be a chiropractor. The consumer member shall not be an immediate family member of a chiropractor, nor shall he or she be employed in the chiropractic field.

(c) The elected members of the board shall be elected as provided in this subsection. In August of any year that the term of a member of the board expires, the Board of Chiropractic Examiners shall mail a notice of the election of the board and the method of qualifying as a candidate to each active licensed chiropractor in the district where the

vacancy occurs at his or her permanent mailing address. The election provided for in this section shall be conducted by an independent agency such as a certified public accounting firm unless there is only one candidate for the board and in this situation, the board shall certify the results. The board shall set a period for candidates to qualify and the date for the ballots to be mailed. Candidates shall qualify by submitting their name to the executive secretary of the board during the qualifying period which shall be not less than 20 days nor more than 40 days after the notice is mailed. Not less than 14 days after the deadline for qualification, each licensed chiropractor shall be mailed a ballot for the appropriate congressional district where the vacancy is to be filled. In order to be counted, the ballots shall be received by the board not later than 14 days after the ballots are mailed. The results of the election shall be certified by no less than three members of the board. The ballots shall be maintained for a period of six months. The candidate with a simple majority of the votes cast in each respective congressional district shall be elected to the board position for that congressional district. In the event no candidate in a district receives a majority of the votes, the board shall hold a run-off election in the same manner as provided in this subsection. The members of the board shall take office immediately upon election and the executive secretary of the board shall set the first meeting of the board after the election of the new board.

(d) Whenever a vacancy occurs on the board, whether by death, resignation of a member, or other cause, the vacancy shall be filled in the same manner as the original election or appointment for the remainder of the term of office.

(e) The board may employ investigators, inspectors, attorneys, and any other agents, employees, and assistants as may from time to time be necessary, and may use any other means necessary to bring about and maintain a rigid administration and enforcement of state and federal law.

(f) The board shall employ an executive secretary who shall be responsible for the administration of board policy. The executive secretary may be licensed to practice chiropractic in this state as provided in this article.

(g) The board shall publish annually a directory listing all persons licensed to practice chiropractic in Alabama. Copies of the directory shall be made available from the executive secretary at a cost set from time to time by resolution of the board.

(h) The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

(Acts 1959, No. 108, p. 612, § 2; Acts 1985, No. 85-613, p. 938, § 3; Acts 1989, No. 89-237, p. 321, § 2; Acts 1993, No. 93-150, p. 213, § 3; Acts 1995, No. 95-402, p. 837, § 1; Act 2003-352, p. 921, § 1; Act 2006-295, p. 602, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1993 amendment, effective April 6, 1993, designated the second, third, and fourth paragraphs as present subsections (b), (c), and (d); redesignated former subsections (b), (c), and (d) as present subsections (e), (f), and (g); in subsection (a), in the first sentence, deleted "hereby" preceding "created," and in the second sentence, substituted "has been engaged in the practice" for "have been engaged in such practice"; in subsection (b), deleted "of chiropractic examiners" following "board" in the first and

second sentences, substituted "shall" for "will" twice in the second sentence and deleted "such" preceding "congressional district" in the middle of the second sentence, added the present fifth sentence, deleted "such" preceding "appointees" in the sixth sentence, and substituted "Thereafter" for "Following this" in the last sentence; in subsection (c), substituted "board" for "state board of chiropractic examiners" near the beginning of the first sentence, and in the second sentence, substituted "names shall" for "names will" and substituted "who shall" for "and he will"; in subsection (d), in the first sentence, deleted "or" preceding "resignation" and substituted "appointment is made" for "appointments are made," and in the second sentence, substituted "determine" for "satisfy himself"; deleted "and" preceding "employees" in subsection (e); substituted "executive secretary may" for "executive secretary shall" in subsection (f); and in subsection (g), substituted "at a cost set from time to time" for "at cost, which cost shall be estimated and set from time to time."

The 1995 amendment, effective July 25, 1995, rewrote this section.

The 2003 amendment, effective September 1, 2003, in subsection (a) substituted "except as otherwise provided in Section 34-24-141" for "as the congressional districts exist on July 25, 1995", substituted "the five immediately preceding" for "five", and deleted the final sentence; and in subsection (c) inserted "unless there is only one candidate for the board and in this situation, the board shall certify the results" and added the eighth sentence.

The 2006 amendment, effective July 1, 2006, in subsection (a) substituted "nine members. Eight" for "eight members. Seven", substituted "section. Seven of the elected members shall be elected" for "section,", inserted the fifth and sixth sentences, substituted "Each elected member" for "A licensed member", deleted "a resident of the congressional district from which elected;" preceding "a graduate" inserted "clinical" in two places, and substituted "of good moral character; and must not be presently on probation relating to the practice of chiropractic in any state including this state" for "and of good moral character".

Code Commissioner's Notes

Acts 1985, No. 85-613, which became effective May 20, 1985, provides, in Section 2, that the existence and functioning of the Board of Chiropractic Examiners, created pursuant to §§ 34-24-140 through 34-24-172, are continued, and such code sections are expressly continued.

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

Acts 1995, No. 95-402, provides in § 2: "This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, however, it shall not affect the term of any member of the board currently serving."

Acts 1997, No. 97-149, § 2, provides: "The existence and functioning of the State Board of Chiropractic Examiners, created and functioning pursuant to Sections 34-24-120 to 34-24-176, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved."

Act 2001-245, § 2 provides: "The existence and functioning of the State Board of Chiropractic Examiners, created and functioning pursuant to Sections 34-24-120 to 34-24-176, inclusive, Code of Alabama 1975, is continued, and those code sections are

expressly preserved."

Act 2005-81, § 2 provides: "The existence and functioning of the State Board of Chiropractic Examiners, created and functioning pursuant to Sections 34-24-120 through 34-24-176, Code of Alabama 1975, is continued, and those code sections are expressly preserved."

REFERENCES

ADMINISTRATIVE CODE

2 Ala. Admin. Code 190-X-1-.10, Board of Chiropractic Examiners; Organization, Administration and Procedure: Executive Secretary.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒5(1); States ☒45.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 12-13, 18; States §§ 79-80, 82, 136.

ANNOTATIONS

CASENOTES

Generally 1

1. Generally

State Board of Chiropractic Examiners was a State agency that enjoyed absolute immunity from lawsuit by chiropractor, who was subject of unsuccessful disciplinary action. *Mooneyham v. State Bd. of Chiropractic Examiners*, 802 So.2d 200 (Ala.2001).

§ 34-24-141. Board of Chiropractic Examiners -- Membership. [Historical Notes](#) [References](#)

The members of the board shall be elected or appointed, as provided in Section 34-24-140, for a term of four years and the terms shall be staggered. In the event that there are two or more board members serving from the same congressional district based on redistricting, the members of the board shall serve until their term expires, and the vacancy shall be filled from any congressional district where no member resides as the term or terms expire. In the event the State of Alabama gains or loses a congressional seat, the districts shall be based on the last congressional districting plan having seven districts. No member shall serve more than two consecutive full terms on the board, effective January 1, 1990. A member of the board may be removed by the Governor for neglect of duty or just cause. Before taking office, the members of the board shall take and file with the Secretary of State the constitutional oath of office required by Section 279 of the Constitution of Alabama of 1901.

(Acts 1959, No. 108, p. 612, § 3; Acts 1985, No. 85-613, p. 938, § 3; Acts 1989, No. 89-237, p. 321, § 2; Acts 1995, No. 95-402, p. 837, § 1; Act 2003-352, p. 921, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1995 amendment, effective July 25, 1995, rewrote this section.

The 2003 amendment, effective September 1, 2003, substituted "The" for "Upon the expiration of the respective terms of the seven members appointed for the terms before July 25, 1995, the", deleted ", on July 25, 1995," preceding "two or", and added the third sentence.

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

Acts 1995, No. 95-402, provides in § 2: "This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, however, it shall not affect the term of any member of the board currently serving."

REFERENCES

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒5(1).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 12-13, 18.

§ 34-24-142. Board of Chiropractic Examiners -- Compensation of members.

Historical Notes References

Each member of the board shall be entitled to receive a per diem at the rate of 80 percent of the rate established by Section 34-24-54 for each day or any portion thereof that the member of the board is in attendance at a meeting of the board or any function of the board, plus an amount not to exceed the per diem expense and transportation costs allowed to Alabama state employees for in-state travel for each day actively engaged in the duties of their office. All expenditures by the board shall be made only on requisition signed by the president or the executive secretary of the board.

(Acts 1959, No. 108, p. 612, § 4; Acts 1989, No. 89-237, p. 321, § 2; Act 2003-352, p. 921, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 2003 amendment, effective September 1, 2003, substituted "a per diem at the rate of 80 percent of the rate established by Section 34-24-54 for each day or any portion

thereof that the member of the board is in" for "\$60.00 for each day's", inserted "or any function of the board", inserted "for each day actively engaged in the duties of their office", and substituted "the executive secretary" for "vice-president".

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒5(1).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 12-13, 18.

§ 34-24-143. Disposition of funds; audit; refunds; records. [Historical Notes](#) [References](#) [Annotations](#)

All examination fees, certification fees, renewal fees, and other similar funds received by the board under the provisions of this article shall be deposited in the State Treasury to the credit of the State Board of Chiropractic Examiners, and all such funds are hereby appropriated to the board to defray the expenses incurred in carrying out the provisions of this article. The expenses shall include printing, stamps, stationery, clerical help, travel, and other necessary expenditures. In all cases, any fee which is received by the board shall not be refunded, and no applicant shall have the right to recover any part of a fee accompanying his or her application for licensure or otherwise paid to the board except on the death, disability, or retirement from practice of any applicant or licensee between payment of any fee and the expiration of his or her current renewal or the issuance of the initial license or on the failure of the board to conduct any scheduled examination. The books and records of the board shall be subject to state audit in the same manner and to the same extent as any other state agency. The secretary-treasurer or the executive secretary shall keep a true and accurate account of all funds received by the board and all expenditures made by the board.

(Acts 1959, No. 108, p. 612, § 5; Acts 1989, No. 89-237, p. 321, § 2; Act 2006-295, p. 602, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 2006 amendment, effective July 1, 2006, substituted "fees, and other similar" for "fees and other such", substituted "The expenses" for "Such expenses", inserted a comma following "travel", and inserted the third sentence.

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct

occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒5(1).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 12-13, 18.

ANNOTATIONS

CASENOTES

Generally 1

1. Generally

State Board of Chiropractic Examiners was a State agency that enjoyed absolute immunity from lawsuit by chiropractor, who was subject of unsuccessful disciplinary action. *Mooneyham v. State Bd. of Chiropractic Examiners*, 802 So.2d 200 (Ala.2001).

§ 34-24-144. Board of Chiropractic Examiners -- Officers; meetings; rules and regulations; bond. [Historical Notes](#) [References](#)

The members of the State Board of Chiropractic Examiners shall convene within 30 days after their election or appointment and elect a president, vice-president, and secretary-treasurer from among their members, and thereafter the board shall elect, annually, after the commencement of the term of any board member, a president, vice-president, and secretary-treasurer from among the members of the board. The board shall meet at least twice a year and shall set by rule the regular meeting schedule of the board. The board shall adopt a seal, which shall be affixed to all licenses issued. Five members of the board shall constitute a quorum. However, the board may appoint hearing panels consisting of no fewer than three board members. The consumer member of the board may be a member of each hearing panel. The hearing panels are authorized to conduct hearings in the same manner as the full board is authorized to conduct hearings. The board may from time to time adopt necessary rules and regulations for the performance of its duties. The secretary-treasurer and the executive secretary of the board shall give bond in the principal sum of one thousand dollars (\$1,000), payable to the State of Alabama, for the faithful performance of their duties. The premiums for the bond shall be paid by the board from funds appropriated for its use.

(Acts 1959, No. 108, p. 612, § 6; Acts 1989, No. 89-237, p. 321, § 2; Acts 1995, No. 95-402, p. 837, § 1; Act 2003-352, p. 921, § 1; Act 2006-295, p. 602, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1995 amendment, effective July 25, 1995, in the first sentence inserted "election or" and inserted "after the commencement of the term of any board member"; substituted the language beginning "meet at least twice a year" for "hold its regular sessions biannually" in the second sentence; substituted "Five licensed members" for "A majority" in the fourth sentence; in the fifth sentence, substituted "shall" for "may," substituted "necessary" for "such" and deleted "as it may deem proper and necessary" following "rules and regulations"; substituted "their" for "his" in the next-to-last sentence; and made nonsubstantive changes.

The 2003 amendment, effective September 1, 2003, added the fifth through seventh sentences.

The 2006 amendment, effective July 1, 2006, substituted "member, a president, vice-president," for "member, a president, vice-president", and deleted "licensed" following "Five".

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

Acts 1995, No. 95-402, provides in § 2: "This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, however, it shall not affect the term of any member of the board currently serving."

REFERENCES

ADMINISTRATIVE CODE

- 2 Ala. Admin. Code 190-X-1-.06, Board of Chiropractic Examiners; Organization, Administration and Procedure: Meetings.
- 2 Ala. Admin. Code 190-X-1-.10, Board of Chiropractic Examiners; Organization, Administration and Procedure: Executive Secretary.
- 2 Ala. Admin. Code 190-X-6-.01 et seq., Board of Chiropractic Examiners; Amendment of Rules.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒5(1).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 12-13, 18.

§ 34-24-145. Establishment of preceptorship, etc., authorized; issuance and expiration of limited license; board to establish rules, etc., for implementation of section. [Historical Notes](#) [References](#)

(a) The State Board of Chiropractic Examiners is hereby authorized to establish a preceptorship and extern program whereby chiropractic students enrolled in their last year at board-approved chiropractic colleges accredited by the Council of Chiropractic Education and recent chiropractic graduates of such schools may be issued a limited license to practice chiropractic under the direct on-premises supervision of a sponsor

licensed to practice chiropractic in the State of Alabama, and in the case of chiropractic students, also under the supervision of the school. The limited license shall expire immediately upon the board issuing the results of the second licensure examination.

(b) The State Board of Chiropractic Examiners shall prohibit the use of more than one limited license student or graduate to one sponsor licensed to practice chiropractic.

(c) The State Board of Chiropractic Examiners is empowered to establish rules and regulations for the implementation of this section, including, but not limited to, providing academic, professional, and character requirements for eligible participants, defining the permitted scope of practice of the limited licensee, and requiring fees for participation.

(d) The State Board of Chiropractic Examiners shall implement and perform all powers and duties transferred to it pursuant to Act 81-217, H. 213, 1981 Regular Session (Acts 1981, p. 271).

(Acts 1983, No. 83-586, p. 919, §§ 1-3; Acts 1989, No. 89-237, p. 321, § 2.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

ADMINISTRATIVE CODE

2 Ala. Admin. Code 190-X-7-.01 et seq., Board of Chiropractic Examiners; Preceptor and Extern/Intern Program.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒5(1).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 12-13, 18.

DIVISION 3. CERTIFICATES OF QUALIFICATION.

REFERENCES

ADMINISTRATIVE CODE

2 Ala. Admin. Code 190-X-2-.01 et seq., Board of Chiropractic Examiners; Licensure.

2 Ala. Admin. Code 190-X-3-.01 et seq., Board of Chiropractic Examiners; Specialty Certification.

2 Ala. Admin. Code 190-X-4-.01 et seq., Board of Chiropractic Examiners; Disciplinary Actions.

2 Ala. Admin. Code 190-X-5-.01 et seq., Board of Chiropractic Examiners; Professional

Conduct.

§ 34-24-160. Application; qualifications of applicant; fee. [Historical Notes](#)
[References](#)

Any person wishing the right to practice chiropractic shall make application to the State Board of Chiropractic Examiners in the form as the board may prescribe. Each applicant shall be of good moral character and shall be a graduate of a chartered chiropractic school or college accredited by the council of chiropractic education which teaches only attendance courses and requires a minimum four-year standard college course. An applicant for licensure prior to December 31, 2009, shall also have had literary training equaling as much as a regular high school. An applicant for licensure after January 1, 2010, shall have a bachelor's degree from an accredited college or university. The application shall be signed by the applicant in his or her own handwriting, and shall be notarized, and shall recite the history of the applicant's educational qualifications, how long he or she has studied chiropractic, what collateral branches, if any, he or she has studied, the length of time he or she has engaged in clinical practice, with proof thereof in the form of diplomas, certificates, transcripts, etc. Each applicant shall submit with his or her application satisfactory evidence of good character and reputation. Each applicant for licensure shall pay to the board a fee of not less than fifty dollars (\$50) and not more than one hundred fifty dollars (\$150), the exact amount to be fixed annually by resolution of the State Board of Chiropractic Examiners. The fee shall accompany the application. A fee of not less than fifty dollars (\$50) and not more than one hundred fifty dollars (\$150), the exact amount to be fixed by resolution of the State Board of Chiropractic Examiners shall be paid for any subsequent examination. (Acts 1959, No. 108, p. 612, § 7; Acts 1978, No. 767, p. 1107, § 1; Acts 1989, No. 89-237, p. 321, § 2; Act 2006-295, p. 602, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 2006 amendment, effective July 1, 2006, substituted "State" for "state", substituted "the form" for "such form", substituted "An applicant for licensure prior to December 31, 2009," for "Such applicant", inserted the fourth sentence, substituted "The application" for "Application", inserted "or her" in two places, inserted "or she" in three places", substituted "fifty dollars (\$50) and not more than one hundred fifty dollars (\$150)" for "\$50.00 and not more than \$150.00" in two places, and substituted "State Board of Chiropractic Examiners" for "state board of chiropractic examiners".

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

ADMINISTRATIVE CODE

- 2 Ala. Admin. Code 190-X-2-.04, Board of Chiropractic Examiners; Licensure: Application Required.
- 2 Ala. Admin. Code 190-X-5-.01, Board of Chiropractic Examiners; Professional Conduct: Oath.
- 2 Ala. Admin. Code 190-X-2-.01, Board of Chiropractic Examiners; Licensure: Educational Requirements.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒5(2).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 19, 21-24.

§ 34-24-161. Examinations; issuance and replacement of license; identification of office. [Historical Notes](#) [References](#) [Annotations](#)

(a) Each applicant, who matriculated into a chiropractic college after January 1, 1973, must pass parts one and two of the examination administered by the National Board of Chiropractic Examiners or other national examination as approved by the board.

(b) The State Board of Chiropractic Examiners shall prescribe rules and regulations regarding which national examination shall be administered, the conduct of and times and places of examinations, and requirements for successful completion of examinations. A license shall be issued for each applicant who successfully completes the examination.

(c) Irrespective of the requirements in subsections (a) and (b), the board may license an applicant if the applicant is licensed in another state that, in the opinion of the board, has standards of practice or licensure equal to or stricter than the requirements imposed by this article.

(d) Upon completion of all requirements for licensure an applicant shall be issued a license. The fee for issuance of a license shall not be more than fifty dollars (\$50), the exact amount to be established by the board. Each license shall be dated and numbered in the order of issuance and shall be signed by the executive secretary and the president of the board.

(e) Replacement licenses:

(1) Any licensee whose license is lost or destroyed may be issued a replacement license upon making application to the board. The application must be accompanied by an affidavit setting out the facts concerning the loss or destruction.

(2) Name change. Any licensee whose name is changed by marriage or court order may surrender his or her license and apply for a replacement license.

(3) The fee for any replacement license shall be not more than fifty dollars (\$50), the exact amount to be established by the board.

(f) Each licensed chiropractor who is actively engaged in practice or who holds himself or herself out as a chiropractor shall place or cause to be placed in a conspicuous place at the entrance of his or her office or place in which he or she practices a sign in intelligible lettering not less than one inch in height containing the name of the chiropractor and in lettering no smaller than half the size of the name of the chiropractor, the words "CHIROPRACTOR" or "CHIROPRACTIC." The intent of this requirement is

that the office of the licensee be clearly identified by name and profession.
(Acts 1959, No. 108, p. 612, § 8; Acts 1985, No. 85-613, p. 938, § 3; Acts 1989, No. 89-237, p. 321, § 2; Acts 1997, No. 97-149, p. 190, § 3; Act 2003-352, p. 921, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1997 amendment, effective March 25, 1997, in subsection (a), inserted "or other national examination as approved by the board"; in subsection (b), substituted "regarding which national examination shall be administered, the conduct of and" for "governing the subjects upon which applicants for licensure shall be examined, the conduct of examinations, the", inserted a comma following "places of examinations", and substituted "who successfully completes the examination" for "examined who shall correctly answer 75 percent of all questions asked"; in subsection (c), substituted "fifty dollars (\$50)" for "\$50.00"; in subsection (d), in subdivision (1) substituted "The" for "Such", in subdivision (2) substituted "his or her" for "his/her", and in subdivision (3) substituted "fifty dollars (\$50)" for "\$50.00"; and in subsection (e), inserted "or herself", inserted "or her", inserted "or she", substituted "name of the chiropractor" for "chiropractor's name", and substituted "office of the licensee" for "licensee's office".

The 2003 amendment, effective September 1, 2003, redesignated subsections (c)-(e) as subsections (d)-(f); and added subsection (c).

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

ADMINISTRATIVE CODE

- 2 Ala. Admin. Code 190-X-2-.05, Board of Chiropractic Examiners; Licensure: Examination Required.
- 2 Ala. Admin. Code 190-X-2-.15, Board of Chiropractic Examiners; Licensure: Licensure by Reciprocity.
- 2 Ala. Admin. Code 190-X-5-.13, Board of Chiropractic Examiners; Professional Conduct: Professional Signs.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒4, 5(1, 2), 10.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 12-13, 18-24, 53, 57.

ANNOTATIONS

CASENOTES

Generally 1

1. Generally

State Board of Chiropractic Examiners was a State agency that enjoyed absolute immunity from lawsuit by chiropractor, who was subject of unsuccessful disciplinary action. *Mooneyham v. State Bd. of Chiropractic Examiners*, 802 So.2d 200 (Ala.2001).

§ 34-24-162. Issuance to persons licensed in other states. Repealed by Acts 1989, No. 89-237, p. 321, § 6, effective April 6, 1989. [Historical Notes](#)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

§ 34-24-163. Issuance of certificates to persons practicing on January 1, 1960.

[Historical Notes](#) [References](#)

Notwithstanding any section of this article or any other law to the contrary, the board shall issue a license to practice chiropractic without examination to any person in the active practice of chiropractic in the State of Alabama on January 1, 1960; provided, that said person shall make a written application to the board on forms and in the manner prescribed by the board; and provided further, that said person produces evidence satisfactory to the board that he is a graduate of a school or college of chiropractic recognized by the board and is of good moral character. Such application shall be accompanied by a \$25.00 application fee. Any person who is in the armed forces of the United States and who otherwise meets the qualifications of this section and was actively in the practice of chiropractic in this state before becoming a member of the armed forces of the United States shall have 90 days after discharge or resignation from the armed forces of the United States in which to make application. The provisions of this section shall be further governed by the portions of this article which specifies methods for revocation, refusal or suspension of licenses, or rules and regulations governing retirement or surrender of licenses.

(Acts 1959, No. 108, p. 612, § 21; Acts 1989, No. 89-237, p. 321, § 2.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by

preexisting law.

REFERENCES

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒4.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 19-20.

§ 34-24-164. License to be recorded with judge of probate. [Historical Notes](#)
[References](#)

Every person who receives a license to practice chiropractic shall have it recorded in the office of the judge of probate of each county in which he practices and shall likewise have it recorded in the counties to which he may subsequently remove for the purpose of practicing chiropractic and shall pay a fee to the judge of probate in each county in which the license is recorded. No person shall engage in the practice of chiropractic until the license is recorded by the judge of probate.

(Acts 1959, No. 108, p. 612, § 11; Acts 1989, No. 89-237, p. 321, § 2.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒10.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 53, 57.

§ 34-24-165. Renewal, forfeiture, etc., of license; waiver of fees; inactive license.

[Historical Notes](#) [References](#)

(a) Every license to practice chiropractic shall be subject to renewal on September 30 of the year for which it is issued. Every person having a valid license may on or before September 30 renew the license for the ensuing year by the payment to the State Board of Chiropractic Examiners of a fee of not more than three hundred dollars (\$300), the exact

amount to be fixed by rule of the board, adopted in accordance with the Alabama Administrative Procedure Act. The renewal shall be accompanied by satisfactory evidence that the person has completed during the preceding year a minimum of 18 hours of professional educational work approved by the board. The board, for good and reasonable cause shown, may waive the education requirement. The secretary-treasurer or the executive secretary of the board shall notify each licensee at least 30 days prior to September 30 of each year of the due date for renewal. In addition to the renewal fee, a late renewal penalty shall be assessed any licensee who fails to pay the renewal fee by September 30 of each year based on the following schedule:

- (1) For renewal during the month of October, fifty dollars (\$50).
- (2) For renewal during the month of November, one hundred dollars (\$100).
- (3) For renewal during the month of December, two hundred and fifty dollars (\$250).

A chiropractor may continue to practice until December 31 of the year for which a license is issued subject to subsection (b).

(b) Failure, by December 31 of each year, to renew a license and pay the renewal fee, late renewal penalty if applicable, and submit proof of completion of a minimum of 18 hours of approved professional educational work, unless waived, shall operate as a forfeiture of the right of the licensee to practice his or her profession in this state. During this grace period for renewal, a licensee may complete any continuing education requirements for renewal that the licensee failed to complete during the prior fiscal year. A forfeited license may be reinstated by the board, in its discretion, upon payment of a reinstatement fee as required by Section 34-24-176, and all past fees due, including the highest late renewal penalty provided above. All funds received by the board for annual license renewal fees may be used by the board for education, promotion and welfare of the science of chiropractic.

(c) Any licensee who is no longer in active practice may apply for retirement of his or her license by submitting an affidavit to that effect on a form supplied by the executive secretary. A licensee whose license is retired is excused from the professional education requirement specified in this article. The annual fee for maintenance of a retired license may not be more than one-half of the amount required by this article for an active license. Licensees who have not renewed in the last five years because of the increase in the retired renewal fee may renew to "Retired" status without having to pay the full amount of back fees and late fees. A retired licensee may not be required to pay back fees and reinstatement fees required by this article for reinstatement to active practice. The board may require the retired licensee to enroll in and successfully complete a refresher course approved by the board at an accredited chiropractic college. The decision of the board as to whether a course of study will be required and whether a particular course of study will be approved shall be made on an individual case basis and shall be based on all relevant circumstances of that case.

(d) The board may waive or reduce annual registration and the payment of fees while any licensee is prevented from practicing chiropractic by reason of physical disability, temporary active duty with any of the armed forces of the United States, or while any licensee is completely retired from the practice of chiropractic. The waiver of fees shall be effective so long as the disability, temporary active duty, or complete retirement continues.

(e) The State Board of Chiropractic Examiners shall make rules and regulations as necessary and proper for effectuating or enforcing this article.

(f) The board shall also establish an inactive license for persons who desire to be licensed in Alabama but who actually practice in another state. The annual fee for maintenance of an inactive license shall be one-half of the amount required by this section for an active license.

(Acts 1959, No. 108, p. 612, § 19; Acts 1964, 1st Ex. Sess., No. 167, p. 232, § 1; Acts 1969, No. 608, p. 1113, § 1; Acts 1978, No. 769, p. 1109, § 1; Acts 1989, No. 89-237, p. 321, § 2; Acts 1997, No. 97-149, p. 190, § 3; Act 98-650, p. 1427, § 1; Act 99-662, 2nd Sp. Sess., p. 120, § 1; Act 2003-352, p. 921, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 1997 amendment, effective March 25, 1997, redesignated subsections (b) and (c) as subsections (c) and (d); in subsection (a), in the second sentence substituted "September 30 renew the license" for "the first day of October renew the same", substituted "twenty-five dollars (\$25)" for "\$25.00", substituted "one hundred dollars (\$100)" for "\$100.00", substituted "board" for "state board of chiropractic examiners" following "resolution of the", substituted "the" for "such" following "evidence that", and substituted "board. The" for "state board of chiropractic examiners; provided, that the", in the present fourth sentence substituted "September 30" for "October 1", substituted ". In addition to the renewal fee, a twenty-five dollar (\$25) late renewal penalty shall be assessed any licensee who fails to pay the renewal fee by September 30 of each year." for ", and", and redesignated the remaining provisions of subsection (a) as subsection (b); in subsection (b), as so redesignated, substituted "Failure, by December 31 of each year, to renew a license and pay the renewal fee, late renewal penalty if applicable," for "failure to pay such renewal fee", inserted "approved" following "18 hours of", substituted ", unless" for "approved by the board during the preceding year, unless such education requirement is", inserted "or her", substituted ". A forfeited license" for "; provided, that he", and substituted "a reinstatement fee as required by Section 34-24-176, and all past fees due, including the late renewal penalty" for "all fees due"; in subsection (c), as so redesignated, inserted "or her", and substituted "decision of the board" for "board's decision"; and in subsection (d), as so redesignated, deleted "such" following "shall make", and deleted "are" preceding "necessary".

The 1998 amendment, effective August 1, 1998, in subsection (a), in the second sentence substituted "three hundred dollars (\$300)" for "one hundred dollars (\$100)".

The 1999 amendment, effective November 29, 1999, in subsection (a) substituted "be subject to renewal" for "expire", deleted "less than twenty-five dollars (\$25) nor" preceding "more than three hundred", substituted "by rule of the board, adopted in accordance with the Alabama Administrative Procedure Act. The renewal shall be" for "annually by resolution of the board,", substituted "30 days" for "20 days", deleted "twenty-five dollar (\$25)" preceding "late renewal penalty", substituted "year based on the following schedule:" for "year.", and added subdivisions (1) through (3); added the undesignated subsection; and in subsection (b) substituted "highest late renewal penalty provided above" for "late renewal penalty".

The 2003 amendment, effective September 1, 2003, in subsection (a) deleted "may," preceding "for good" and inserted "may" preceding "waive"; in subsection (b) added the second sentence; in subsection (c) rewrote the third sentence, added the fourth sentence, substituted "licensee may" for "licensee shall", and inserted "for reinstatement to active practice"; redesignated subsections (d) and (e) as subsections (e) and (f), respectively; and added subsection (d).

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

ADMINISTRATIVE CODE

- 2 Ala. Admin. Code 190-X-2-.01, Board of Chiropractic Examiners; Licensure: Educational Requirements.
- 2 Ala. Admin. Code 190-X-2-.11, Board of Chiropractic Examiners; Licensure: Renewal of License.
- 2 Ala. Admin. Code 190-X-2-.16, Board of Chiropractic Examiners; Licensure: Inactive License (Out of State).
- 2 Ala. Admin. Code 190-X-2-.17, Board of Chiropractic Examiners; Licensure: Non-licensed Chiropractic Practice Ownership.
- 2 Ala. Admin. Code 190-X-5-.01, Board of Chiropractic Examiners; Professional Conduct: Oath.
- 2 Ala. Admin. Code 190-X-5-.06, Board of Chiropractic Examiners; Professional Conduct: Solicitation.
- 2 Ala. Admin. Code 190-X-7-.01 et seq., Board of Chiropractic Examiners; Preceptor and Extern/Intern Program.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒5(2).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 19, 21-24.

§ 34-24-166. Refusal, revocation or suspension -- Grounds; rules; disciplinary action. [Historical Notes](#) [References](#) [Annotations](#)

(a) The State Board of Chiropractic Examiners may refuse to grant a license to any applicant who is not of good moral character and reputation or has a history of narcotic addiction or has previously been convicted of a felony or any crime of moral turpitude or has previously been diagnosed as having a psychopathic disorder.

(b) The State Board of Chiropractic Examiners may invoke disciplinary action as outlined in subsection (c) whenever the licensee or permit holder shall be found guilty of any of the following:

- (1) Fraud in procuring a license, or any fraud in obtaining money or other thing of value.

- (2) Immoral conduct.
 - (3) Unprofessional conduct.
 - (4) Habitual intoxication or addiction to the use of drugs.
 - (5) Conviction of a felony or any crime of moral turpitude.
 - (6) Conviction for violation of any narcotic or controlled substance statute.
 - (7) Unlawful invasion of the field of practice of any other health practitioner when the licensee is not licensed to practice such profession.
 - (8) Division of fees or agreeing to split or divide fees received for professional services with any person for bringing or referring a patient.
 - (9) Continuing to practice after suspension or revocation of license.
 - (10) A violation of any order issued by the board.
 - (11) Engaging in the incompetent practice of chiropractic.
 - (12) Aiding the unauthorized practice of chiropractic.
 - (13) Advertising in any manner which violates the rules and regulations established by the board.
 - (14) A violation of any of the provisions of this article or any rule or regulation adopted by the board.
 - (15) The suspension, revocation, or probation by another state of a license to practice chiropractic. A certified copy of the record of suspension, revocation, or probation shall be conclusive evidence of the suspension, revocation, or probation.
 - (16) The inability to practice chiropractic with reasonable skill and safety to patients by reason of illness, inebriation, excessive use of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition.
- (c)(1) The Board of Chiropractic Examiners shall establish rules and regulations which shall govern the practice of chiropractic and shall detail prohibited acts stated in this article. The board shall have the power and it shall be its duty as a consumer protection agency to fine any licensee and/or suspend for a specific time or revoke any license to practice chiropractic upon a determination of guilt on any of the above enumerated grounds.
- (2) When the board finds any licensee guilty of any of the grounds set forth in subsection (b), the board may enter an order imposing one or more of the following penalties:
- a. Revoke the license to practice chiropractic.
 - b. Suspend the license to practice chiropractic.
 - c. Enter a censure.
 - d. Issue an order fixing a period and terms of probation best adapted to protect the public health and safety and to rehabilitate the licensee.
 - e. Impose an administrative fine not to exceed eight thousand dollars (\$8,000) for each count or separate offense.
 - f. Impose restrictions on the scope of practice.
 - g. Impose peer review or professional education requirements.
 - h. Assess the costs of the disciplinary proceedings.
- (3) Failure to comply with any final order of the board, including, but not limited to, an order of censure or probation, is cause for suspension or revocation of the license.
- (d) The board may in an emergency situation, when danger to the public health, safety

and welfare requires, suspend any license without a hearing or with an abbreviated hearing in accordance with the following sections of this article.

(e) Any person who engages in the unlawful practice of chiropractic, or who violates any provision of this chapter, shall be guilty of a Class C misdemeanor.

(f)(1) When the issue is whether or not a licensee is physically or mentally capable of practicing chiropractic with reasonable skill and safety to patients, then, upon a showing of probable cause to the board that the licensee is not capable of practicing chiropractic with reasonable skill and safety to patients, the board may order and direct the licensee in question to submit to a physical, mental, or laboratory examination, or any combination thereof, to be performed by a physician designated or approved by the board. The expense of the examination shall be borne by the licensee who is examined.

(2) Every licensee who accepts the privilege of practicing chiropractic in the State of Alabama by actually practicing or by the making and filing of an annual renewal to practice chiropractic, and upon a showing of probable cause as provided in subdivision (1), shall be deemed to have given consent to submit to a mental, physical, or laboratory examination, or to any combination thereof, and to waive all objections to the admissibility of the testimony or examination reports of the examining physician on the ground that the reports constitute privileged doctor-patient communications.

(g) It shall be the duty and obligation of the board to promote the early identification, intervention, treatment, and rehabilitation of chiropractors licensed to practice in the state who may be impaired by reason of illness, inebriation, excessive use of drugs, narcotics, alcohol, chemicals, or other substances or as a result of any physical or mental condition. The board may enter into an agreement for any of the following:

- (1) Contracting with providers for treatment programs.
- (2) Receiving and evaluating reports of suspected impairment from any source.
- (3) Intervening in cases of verified impairment.
- (4) Referring impaired chiropractors to treatment programs.
- (5) Monitoring the treatment and rehabilitation of impaired chiropractors.
- (6) Providing post-treatment monitoring and support of rehabilitated impaired chiropractors.

(h) All information, interviews, reports, statements, memoranda, or other documents furnished to the board are confidential and shall be used by the board only in the exercise of the proper function of the board and shall not be public records nor available for court subpoena or for discovery proceedings.

(Acts 1959, No. 108, p. 612, § 12; Acts 1969, No. 609, p. 1114, § 1; Acts 1989, No. 89-237, p. 321, § 2; Act 2003-352, p. 921, § 1; Act 2006-553, p. 1271, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 2003 amendment, effective September 1, 2003, in subsection (b) substituted "invoke disciplinary action as outlined in subsection (c)" for "fine any licensee and/or revoke or suspend any license to practice chiropractic", in subdivision (16) substituted the concluding period for "; or", in subdivision (17) substituted "violation" for "violations"

and inserted "or any rule or regulation adopted by the board", and added subdivisions (18) and (19); in subsection (c) designated the existing provisions as subdivision (1) and added subdivisions (2) and (3); in subsection (e) deleted ", and upon conviction, shall be punished as provided by law" following "misdemeanor"; added subsections (f)-(h); and made nonsubstantive changes.

The 2006 amendment, effective July 1, 2006, in subsection (b) inserted "or permit holder", deleted subdivision (5), (8), (10), (11) and (13), redesignated subdivisions (3), (4), (9), (12) and (14)-(19) as subdivisions (4), (5), (8), (9) and (11)-(16), respectively, in subdivision (2) deleted ", unprofessional or dishonorable" preceding "conduct", inserted subdivisions (3) and (10), and in subdivision (14) substituted "A" for "Willful or repeated".

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

ADMINISTRATIVE CODE

- 2 Ala. Admin. Code 190-X-2-.15, Board of Chiropractic Examiners; Licensure: Licensure by Reciprocity.
- 2 Ala. Admin. Code 190-X-4-.06, Board of Chiropractic Examiners; Disciplinary Actions: Discipline.
- 2 Ala. Admin. Code 190-X-4-.07, Board of Chiropractic Examiners; Disciplinary Actions: Costs.
- 2 Ala. Admin. Code 190-X-5-.04, Board of Chiropractic Examiners; Professional Conduct: Advertising.
- 2 Ala. Admin. Code 190-X-5-.05, Board of Chiropractic Examiners; Professional Conduct: Immoral or Unprofessional Conduct Prohibited.
- 2 Ala. Admin. Code 190-X-5-.06, State Board of Chiropractic Examiners; Professional Conduct: Solicitation.
- 2 Ala. Admin. Code 190-X-5-.07, State Board of Chiropractic Examiners; Professional Conduct: Trust Accounting Procedures for Pre-Payment Plans.
- 2 Ala. Admin. Code 190-X-5-.08, Board of Chiropractic Examiners; Professional Conduct: Exploitation of Patients for Financial Gain.
- 2 Ala. Admin. Code 190-X-5-.09, Board of Chiropractic Examiners; Professional Conduct: Chiropractic Records Required, Release of Records.
- 2 Ala. Admin. Code 190-X-5-.13, Board of Chiropractic Examiners; Professional Conduct: Professional Signs.
- 2 Ala. Admin. Code 190-X-5-.14, Board of Chiropractic Examiners; Professional Conduct: Accident Solicitation Letters.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒11.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers § 35.

ANNOTATIONS


CASENOTES

Sovereign immunity 3

Statute of limitations 2

Suspension under particular circumstances 1

1. Suspension under particular circumstances

Board found licensee guilty of having sexual relations with a patient under his professional care, exploiting the patient or her health insurance carrier for financial gain and billing for services that were not performed; finding was supported by substantial evidence. *Evans v. State Bd. of Chiropractic Examiners*, 662 So.2d 262 (Ala.Civ.App.1994), rehearing denied, certiorari denied. Health  218

2. Statute of limitations

Subsection (e) makes all violations of the Board of Chiropractic Examiners' enabling disciplinary statute Class C misdemeanor offenses. Chiropractor asserted that because the statute of limitations for misdemeanor offenses is 12 months, § 15-3-2, the charges brought against him, dating back to 1985, should have been barred. The court of appeals rejected chiropractor's argument. In the absence of specific legislative authority, civil or criminal statutes of limitation are inapplicable to administrative proceedings. *Chafian v. Alabama Bd. of Chiropractic Examiners*, 647 So.2d 759 (Ala.Civ.App.1994).

3. Sovereign immunity

State Board of Chiropractic Examiners was a State agency that enjoyed absolute immunity from lawsuit by chiropractor, who was subject of unsuccessful disciplinary action. *Mooneyham v. State Bd. of Chiropractic Examiners*, 802 So.2d 200 (Ala.2001).

§ 34-24-167. Refusal, revocation or suspension -- Notice of hearing; procedure.

[Historical Notes](#) [References](#)

(a) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice in writing delivered either by personal service as in civil actions or by certified mail, return receipt requested. Delivery of the notice referred to in this subsection shall constitute commencement of the contested case proceeding.

(b) The notice shall include:

- (1) A statement of the time, place and nature of the hearing;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular sections of the statutes and rules involved;
- (4) A short and plain statement of the matters asserted. If the State Board of Chiropractic Examiners is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved.

Thereafter, upon application, a more definite and detailed statement shall be furnished; and

(5) The summons and complaint shall be mailed at least 35 days prior to the scheduled date of the hearing. The board may specify in its rules and regulations the period for reasonable notice in the event service is refused or returned.

(c) If a party fails to appear in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, proceed with the hearing and make a decision in the absence of the party.

(d) Opportunity shall be afforded all parties to respond and present evidence and argument on all material issues involved and to be represented by counsel at their own expense.

(e) Informal dispositions may be made of any contested case by stipulation, agreed settlement, consent order or default or by another method agreed upon by the parties in writing. The attorney for the State Board of Chiropractic Examiners shall have the authority to make any settlement offer to any respondent in a disciplinary proceeding. Such offer shall not be binding upon the State Board of Chiropractic Examiners.

(f) The record in a contested case shall include:

- (1) All pleadings, motions, and intermediate rulings;
- (2) All evidence received or considered and all other submissions;
- (3) A statement of all matters officially noticed;
- (4) All questions and offers of proof, objections and rulings thereon;
- (5) All proposed findings and exceptions;
- (6) Any decision, opinion or report by the hearing officer at the hearing; and
- (7) All staff memoranda or data submitted to the hearing officer or members of the board in connection with their consideration of the case.

(g) *Oral proceedings shall be open to the public.* Oral proceedings shall be recorded either by mechanized means or by qualified shorthand reporters. Oral proceedings or any part thereof shall be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription thereof shall be filed with and maintained by the board for at least five years from the date of the decision and shall be made available for inspection by the public, except in those cases where the proceedings shall be ordered sealed by order of the court.

(Acts 1959, No. 108, p. 612, § 13; Acts 1989, No. 89-237, p. 321, § 2.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

ADMINISTRATIVE CODE

2 Ala. Admin. Code 190-X-4-.01, Board of Chiropractic Examiners; Disciplinary

Actions: Complaints.
2 Ala. Admin. Code 190-X-4-.02, Board of Chiropractic Examiners; Disciplinary
Actions: Complaint Investigation Procedure.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒11.3.

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers § 43.

§ 34-24-168. Refusal, revocation or suspension -- Guidelines for conduct of hearing; settlement by guilty plea. [Historical Notes](#) [References](#)

(a) The board shall specify in its rules and regulations specific guidelines to govern all hearings.

(b) In the event of a settlement of a contested case by means of a written guilty plea and waiver of hearing, the attorney for the board shall submit the complaint, plea and waiver with a recommendation as to final decision. The recommendation shall not be binding upon the board in making its final decision.

(Acts 1959, No. 108, p. 612, § 14; Acts 1989, No. 89-237, p. 321, § 2.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

ADMINISTRATIVE CODE

2 Ala. Admin. Code 190-X-4-.01, Board of Chiropractic Examiners; Disciplinary
Actions: Complaints.

2 Ala. Admin. Code 190-X-4-.02, Board of Chiropractic Examiners; Disciplinary
Actions: Complaint Investigation Procedure.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒11.3(4).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers § 50.

§ 34-24-169. Refusal, revocation or suspension--Effect of failure of party charged to appear at hearing; appeals. Repealed by Acts 1989, No. 89-237, p. 321, § 6, effective April 6, 1989. [Historical Notes](#)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

§ 34-24-170. Costs and fines. [Historical Notes](#)

The board shall specify in its rules and regulations a schedule of costs or fines, or both, to be imposed upon any person who has been found guilty of a violation of Sections 34-24-166 or 34-24-161(f), each not to exceed eight thousand dollars (\$8,000) per violation.

(Acts 1959, No. 108, p. 612, § 16; Acts 1989, No. 89-237, p. 321, § 2; Act 2003-352, p. 921, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 2003 amendment, effective September 1, 2003, substituted "or fines or both" for "and/or fines" and substituted "eight thousand dollars (\$8,000)" for "\$1,000.00".

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

In 2003, the Code Commissioner changed the reference "34-24-161(e)" to "34-24-161(f)" to conform the citation to the renumbering of Section 34-24-161 by Act 2003-352.

§ 34-24-171. Refusal, revocation or suspension--Notice to state licensing board for healing arts of revocation of certificate; revocation of license. Repealed by Acts 1989, No. 89-237, p. 321, § 6, effective April 6, 1989. [Historical Notes](#)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

§ 34-24-172. Restoration of license. [Historical Notes](#) [References](#)

The State Board of Chiropractic Examiners, at any time after two years of the refusal

or revocation or cancellation of a license under this article, by a majority vote, may issue a new license or grant a license to the person affected, restoring to, or conferring upon the person, all the rights and privileges of and pertaining to the practice of chiropractic as defined and regulated by this article, upon the applicant's showing good moral character and possession of the qualifications required under the terms of this article and as may be specified in the rules and regulations adopted by the board. Any person to whom such license may have been restored shall pay to the board a restoration fee. The restoration fee shall be in an amount determined by the board, but not to exceed one-half the amount of the annual license fee upon the issuance of a new license.

(Acts 1959, No. 108, p. 612, § 18; Acts 1989, No. 89-237, p. 321, § 2; Act 2003-352, p. 921, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 2003 amendment, effective September 1, 2003, substituted "Examiners," for "Examiners may", inserted "may" following "vote,", deleted "him" following "restoring", substituted "the person" for "him", and substituted "a restoration fee. The restoration fee shall be in an amount determined by the board, but not to exceed one-half the amount of the annual license fee" for "the sum of \$25.00".

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

ADMINISTRATIVE CODE

2 Ala. Admin. Code 190-X-2-.11, Board of Chiropractic Examiners; Licensure:
Renewal of License.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒11.3(5).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 51-52.

§ 34-24-173. Rules of evidence in contested cases. [Historical Notes](#) [References](#)

In contested cases:

(1) The rules of evidence as applied in nonjury civil cases in the circuit courts of this state shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The board shall give effect to the rules of privilege recognized by law. Except as hereinafter provided, objections to evidentiary offers

may be made and shall be noted in the record. Whenever any evidence is excluded as inadmissible, all such evidence existing in written form shall remain a part of the record as an offer of proof. The party seeking the admission of oral testimony may make an offer of proof by means of a brief statement on the record describing the testimony excluded. All rulings on the admissibility of evidence shall be final and shall appear in the record. Subject to these requirements, when a hearing will be expedited and interests of the parties will not be prejudiced substantially, any part of the evidence may be received or may be required to be submitted in verified form; provided, the adversary party shall not be denied the right of cross-examination of the witness. The testimony of the parties and witnesses shall be made under oath.

(2) Documentary evidence otherwise admissible may be received in the form of copies or excerpts, or by incorporation by reference to material already on file with the board. Upon request, parties shall be given an opportunity to compare the copy with the original.

(3) A party may conduct cross-examination required for a full and true disclosure of the facts, except as otherwise limited by law.

(4) Official notice may be taken of all facts of which judicial notice may be taken and of other scientific and technical facts within the specialized knowledge of the board.

(5) The experience, technical competence, and specialized knowledge of the board may be utilized in the evaluation of the evidence.

(6) The board's interpretation of its own rules and regulations in contested cases shall be final and conclusive and shall not be set aside upon judicial review.

(7) The board shall have the power to issue subpoenas and to compel the attendance of any witness or the production of any book, writing or other document in the possession, custody or control of any person. Any person refusing to produce any book, writing or other document or to appear to testify, without legal excuse, at such hearing of the board, after having been served with a subpoena issued by the board, shall be guilty of contempt; and upon certification of such act by the board to the judge of the circuit court of whose jurisdiction the hearing is held or is to be held, the judge shall punish the same as though committed before him.

(Acts 1989, No. 89-237, p. 321, § 2.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

ADMINISTRATIVE CODE

2 Ala. Admin. Code 190-X-4-.01, Board of Chiropractic Examiners; Disciplinary Actions: Complaints.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒11.3(3).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 47-49.

§ 34-24-174. Form and content of final order. [Historical Notes](#) [References](#)

(a) The final order in a proceeding shall be in writing and made a part of the record and include findings of fact and conclusions of law separately stated, and it shall be rendered within 45 days:

(1) After the hearing is concluded, if conducted by the board;

(2) After the board accepts any proposed findings of fact and conclusions of law or proposed final order from any party in a disciplinary hearing;

(3) After a recommended order, or findings and conclusion are submitted to the board and mailed to all parties, if the hearing is conducted by a hearing officer; or

(4) The 45-day period may be waived or extended with the consent of all parties.

(b) Findings of fact, if set forth in a manner which is no more than mere tracking of the statutory language, shall be accompanied by a statement of the underlying facts of record which support the findings.

(c) If the board finds that an immediate danger to the public health, safety, or welfare requires an immediate final order, it shall recite with particularity the facts underlying such findings in the final order, which shall be appealable or enjoined from the date rendered.

(d) Parties shall be notified either personally or by certified mail return receipt requested of any order and, unless waived, a copy of the final order shall be so delivered or mailed to each party or to his attorney of record.

(Acts 1989, No. 89-237, p. 321, § 3.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒11.3(4).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers § 50.

§ 34-24-175. Appeal from final decision, judicial review. [Historical Notes](#) [References](#)

(a) Any party whose license is revoked, refused or suspended by the board shall not be required to file a motion for rehearing to exhaust his remedies available from the board.

(b) Any party whose license is revoked, refused or suspended by the board, may file a petition for judicial review in the Circuit Court of Montgomery County. The filing of the petition must be within 30 days of the date of the board's final decision.

(c) Within 30 days after receipt of the petition for judicial review or within such additional time as the court may allow, the board shall transmit to the reviewing court the original or a certified copy of the entire record and transcript of the proceedings under review. Any party seeking judicial review of the board's revocation, refusal or suspension of his license shall be responsible for all costs associated with preparation, transcription, reproduction and transmittal of the proceedings under review.

(d) Other than specified in this statute, any judicial review of the board's final decision shall be conducted in accordance with the provisions for review of final agency decisions of contested cases in Sections 41-22-20 and 41-22-21.

(Acts 1989, No. 89-237, p. 321, § 4.)

HISTORICAL NOTES

HISTORY

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒11.3(5).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 51-52.

§ 34-24-176. Reinstatement of license. [Historical Notes](#) [References](#)

In any event any licensee allows his or her license to lapse and desires to return to active practice, he or she must apply to the board for a reinstatement of the license and must submit to the board a reinstatement fee together with all back fees. The reinstatement fee shall be one-half the amount of the annual license fee. The applicant must satisfy the board that he is of good moral character and otherwise possesses all qualifications required by law of licensees. Additionally, the board may require the licensee to enroll in and pass a refresher course approved by the board at an accredited chiropractic college. The board's decision as to whether a course of study will be required and whether a particular course of study will be approved shall be made on an

individual case basis and shall be based on all relevant circumstances of that case.
(Acts 1989, No. 89-237, p. 321, § 5; Act 2003-352, p. 921, § 1.)

HISTORICAL NOTES

HISTORY

Amendment notes:

The 2003 amendment, effective September 1, 2003, inserted "or her", inserted "or she", substituted "the license" for "his license", deleted "of \$25.00" preceding "together", and added the second sentence.

Code Commissioner's Notes

Section 8 of Acts 1989, No. 89-237 provides that the act only applies to conduct occurring after April 6, 1989. Conduct occurring before this date shall be governed by preexisting law.

REFERENCES

ADMINISTRATIVE CODE

2 Ala. Admin. Code 190-X-2-.11, Board of Chiropractic Examiners; Licensure:
Renewal of License.

LIBRARY REFERENCES

American Digest System:

Physicians and Surgeons ☒5(2).

Corpus Juris Secundum:

C.J.S. Physicians, Surgeons, and other Health-Care Providers §§ 19, 21-24.

§ 34-24-177. Nonrenewal pending payment of administrative fine; refund.

Historical Notes

The board shall not renew the annual certificate of registration as set forth in Section 34-24-123, 34-24-165, or 34-24-176 of any licensee or permit holder against whom an administrative fine has been assessed by the board until the fine is paid in full. In the event that the fine is subsequently reduced or set aside on judicial review as provided in the Alabama Administrative Procedure Act, the licensee or permit holder shall be entitled to a prompt refund of the amount of the fine, but shall not be entitled to interest thereon. (Act 2006-295, p. 602, § 2.)

Board Members

#1

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 MRS. JEANETTE A. GREENE, CONSUMER MEMBER



SHEILA BOLTON
 EXECUTIVE SECRETARY
 102 CHILTON PLACE
 CLANTON, ALABAMA 35045
 1-800-949-5838
 1-205-755-8000
 (FAX) 1-205-755-0081

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| Hon. Brian Wells, D.C. District 3 | Vice-President 120 Pawnee Drive Anniston, AL 36206 | 12/31/09 |
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| | | |
| <u>Official</u> Mrs. Sheila K. Bolton | Executive Secretary 205-755-8000 ext 222 102 Chilton Place Clanton, AL 35045 | |

Continued

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SHEILA BOLTON
EXECUTIVE SECRETARY
102 CHILTON PLACE
CLANTON, ALABAMA 35045
1-800-949-5838
1-205-755-8000
(FAX) 1-205-755-0081

| | | | |
|---------------|---|--|--|
| Debra Darnell | Administrative Asst. I 205-755-8000 ext 221 | 102 Chilton Place Clanton, AL 35045 | |
| Amy Deavers | Administrative Asst. II 205-755-8000 ext 226 | 102 Chilton Place Clanton, AL 35045 | |

Signed: Sheila Bolton
Executive Secretary

Dated: 4/23/08

RESPONSE TO SIGNIFICANT ITEMS

ALABAMA STATE BOARD OF CHIROPRACTIC EXAMINERS



GILLES X. BEAUMONT, D.C., PRES.
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SHEILA BOLTON
EXECUTIVE SECRETARY
102 CHILTON PLACE
CLANTON, ALABAMA 35045
1-800-949-5838
1-205-755-8000
(FAX) 1-205-755-0081

August 8, 2008

John Norris
Chief Examiner
Examiners of Public Accounts
P O Box 302251
Montgomery, AL 36130-2251

Re: Significant items

Dear Mr. Norris:

In regard to your request I am submitting the following in regard to the significant items in the Sunset Audit Report:

1. The Board agrees that Code of Alabama, (1975) §34-24-161(b) does not authorize the board to require the jurisprudence examination. In our research of the problem, it appears the needed language was overlooked in the last change. Therefore, the Board ask the committee to include the language needed to require a state given license examination on Alabama Chiropractic Law and Regulations in the Sunset legislation. However, if for some reason it can not be included the Board will seek a sponsor to draft and introduce legislation to correct in the next session.
2. The Board first notes that only a small number of chiropractors responded and even a smaller number complain about the applicable laws or rules. It seems if these restrictions were clearly irrelevant, a much larger number would have so indicated.

As to laws, all know the provisions of the Alabama Chiropractic Practice Act are enacted by the legislature. Clearly, the legislature believed the laws are relevant and necessary.

As to rules, the Board believes the source of most criticism related to advertising. In response to concerns raised by the profession, and yet without abdicating their commitment to the public, the Board's lengthy advertising rule was repealed and replaced by a succinct rule which simply provides that false or fraudulent advertising is not permitted.

ALABAMA STATE BOARD OF CHIROPRACTIC EXAMINERS

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102 CHILTON PLACE
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1-800-949-5838
1-205-755-8000
(FAX) 1-205-755-0081

Page 2

Norris

The Board believes that any objective review of its rules will demonstrate that the rules are not unduly restrictive or irrelevant. It should always be remembered that rule making is a several step process, with an opportunity to appear at the required hearing. With the exception of advertising, few if any chiropractors ever attend those hearings or file written objections. Nor have any chiropractors sought a declaratory ruling allowed by the Alabama Administrative Procedures Act.

It should also be remembered that the Board's mandate in adopting rules is for public protection and that is the lens through which the rules must be viewed. Therefore, what a practitioner considers restrictive or irrelevant may not be when viewed in the light.

The Board hopes this adequately responds to the two significant items.

Very truly yours,

Sheila Bolton
Executive Secretary

SB/ms